



MARKET CONDUCT EXAMINATION REPORT

Dated April 8, 2011

**COVERING THE TIME PERIOD OF JANUARY 1 2009 THROUGH
DECEMBER 31, 2009**

MID-CENTURY INSURANCE COMPANY

**4680 Wilshire Boulevard
Los Angeles, CA 90010**

NAIC Company Code 21687

NAIC Group Code 0212



CONDUCTED BY:

COLORADO DIVISION OF INSURANCE

**MID-CENTURY INSURANCE COMPANY
4680 Wilshire Boulevard
Los Angeles, CA 90010**

**MARKET CONDUCT
EXAMINATION REPORT
DATED APRIL 8, 2011**

Covering The Time Frame of January 1, 2009 Through December 31, 2009

Examination Performed by:

State Market Conduct Examiner

**Jeffory A. Olson, CIE, MCM, FLMI, AIRC, ALHC
Examiner-in Charge**

And

Independent Contract Examiners

With

Dixon Hughes, PLLC

**Thomas D. McIntyre, CIE, MCM, CPCU, FLMI, AIRC, APA, ARA, ACS
Lead Onsite Field Examiner**

Thomas L. Ballard, CIE, CFE, MCM, ALHC, FLMI

Thomas W. Jones, AIE, AIRC, CCP, CLCR, MCM

April 8, 2011

The Honorable John J. Postolowski
Interim Commissioner of Insurance
State of Colorado
1560 Broadway, Suite 850
Denver, Colorado 80202

Commissioner Postolowski:

This market conduct examination of Mid-Century Insurance Company ("Mid-Century") was conducted pursuant to §§ 10-1-203, 204, and 205, C.R.S., as well as § 10-3-1106, C.R.S., which authorize the Insurance Commissioner to examine insurance companies. We examined Mid-Century's records as provided by Mid-Century at their offices in Olathe, KS. Company records were provided via email or CD and delivered to the examiners by Mid-Century. The market conduct examination covered the period from January 1, 2009, through December 31, 2009.

The following market conduct examiners respectfully submit the results of the examination.

Jeffory A. Olson, CIE, MCM, FLMI, AIRC, ALHC

Thomas D. McIntyre, CIE, MCM, CPCU, FLMI, AIRC, APA, ARA, ACS

Thomas L. Ballard, CIE, CFE, MCM, ALHC, FLMI

Thomas W. Jones, AIE, AIRC, CCP, CLCR, MCM

TABLE OF CONTENTS

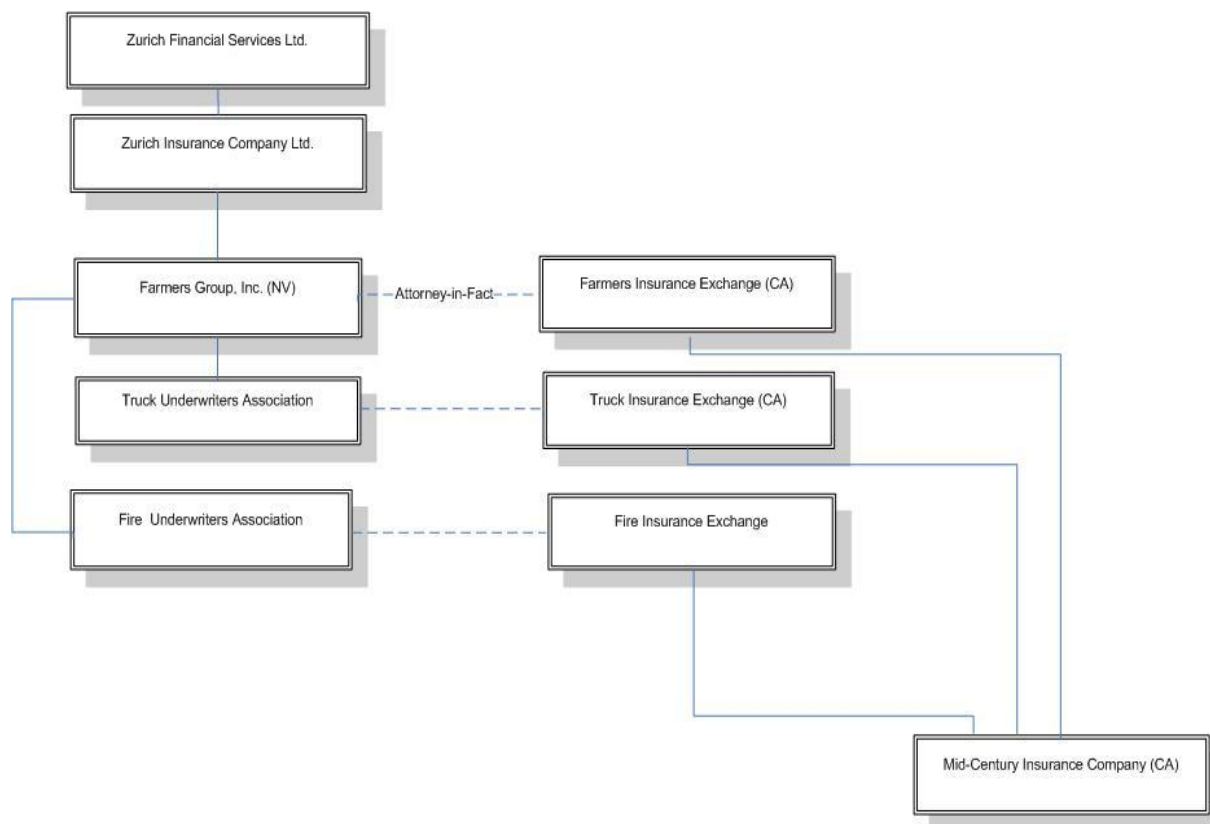
<u>SECTION</u>	<u>PAGE</u>
I. COMPANY PROFILE	5
II. PURPOSE AND SCOPE OF EXAMINATION	6
III. EXAMINERS' METHODOLOGY	8
IV. EXAMINATION REPORT SUMMARY	17
V. FACTUAL FINDINGS.....	19
A. Company Operations and Management	20
E. Contract Forms	25
F. Rates	39
G. Underwriting, New Business and Renewals	46
H. Cancellations, Nonrenewals and Declinations.....	61
J. Claims	69
VI. SUMMARY OF ISSUES AND RECOMMENDATIONS	74
VII. EXAMINATION REPORT SUBMISSION	76

COMPANY PROFILE

The following profile is based on information provided by Mid-Century and other sources:

Mid-Century Insurance Company was organized on December 3, 1949, under the laws of California and commenced business on February 17, 1953. Mid-Century is currently licensed in 49 states including Colorado. Mid-Century Insurance Company was licensed in Colorado on September 18, 1953.

The following abbreviated organizational chart depicts Mid-Century's relationship within the holding company system as of December 31, 2009:



Premium and Market Share as of December 31, 2009:

<u>Total Written Premium:</u>	\$69,116,000*
<u>Private Passenger Auto Written Premium:</u>	\$60,157,000*
Market Share	.87% *
Private Passenger Auto Market Share	2.18% *

* As shown in the 2009 Edition of the Colorado Insurance Industry Statistical Report

A.M. Best Co. has affirmed a rating (FSR) of 'A' (Excellent) and issuer credit ratings (ICR) of "a" of Farmers Insurance Group and its members. Best also affirmed the debt ratings on the outstanding surplus notes of Farmers Insurance Exchange and Farmers Exchange Capital, and the ICR of "a" of Farmers' management company and attorney-in-fact, Farmers Group Inc. (FGI).

PURPOSE AND SCOPE

A state market conduct examiner with the Colorado Division of Insurance (Division), who was assisted by independent contract examiners, reviewed certain business practices of Mid-Century Insurance Company (Mid-Century). This procedure is in accordance with Colorado insurance laws, §§ 10-1-203, 204, and 205, C.R.S., as well as § 10-3-1106, C.R.S., which empower the Commissioner to examine any entity engaged in the insurance business. The findings in this report, including all work products developed in producing it, are the sole property of the Division.

The purpose of the examination was to determine Mid-Century's compliance with Colorado insurance laws related to its private passenger automobile business in Colorado. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record.

Examiners conducted the examination in accordance with procedures developed by the Division, based on model procedures developed by the National Association of Insurance Commissioners. They relied primarily on records and materials maintained and/or supplied by Mid-Century and its agents. The targeted market conduct examination covered the period from January 1, 2009, through December 31, 2009.

The examination included review of the following:

- Company Operations and Management
- Advertising, Marketing and Sales
- Complaint Handling
- Producers/Agents
- Contract Forms
- Rates
- Underwriting, New Business and Renewals
- Cancellations, Nonrenewals and Declinations
- Claims

The final examination report is a report written by exception. References to additional practices, procedures, or files that did not contain improprieties were omitted. Based on review of these areas, comment forms were prepared for Mid-Century identifying any concerns and/or discrepancies. The comment forms contain a section that permits Mid-Century to submit a written response to the examiners' comments.

For the period under examination, the examiners included statutory citations and regulatory references related to personal lines automobile insurance laws. Examination findings may result in administrative action by the Division. Examiners may not have discovered all unacceptable or non-complying practices of Mid-Century. Failure to identify specific Company practices does not constitute acceptance of such practices. This report should not be construed to either endorse or discredit any insurance company or insurance company product.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most instances where monetary values were involved. However, in instances where monetary values were generated by computer or other systemic methodology, a zero dollar (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero dollar (\$0) tolerance level was applied in instances where there was a consistent pattern of deviation from Mid-Century's established policies, procedures, rules and/or guidelines.

When sampling was involved, a minimum error tolerance level of seven percent (7%) for claims, or ten percent (10%) for other samples, was established to determine reportable exceptions. However, if an issue was determined to be systemic, or when the sampling process precluded establishment of an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination and if one or more of the samples yielded an exception rate higher than the minimum tolerance level, the results of any other samples with exception percentages less than the minimum tolerance threshold were also included.

EXAMINERS' METHODOLOGY

The examiners reviewed Mid-Century's business practices to determine compliance with Colorado insurance laws. For this examination, special emphasis was given to the laws and regulations as shown below.

Law	Subject
Section 10-1-128, C.R.S.	Fraudulent insurance acts – immunity for furnishing information relating to suspected fraud – legislative declaration.
Section 10-2-704, C.R.S.	Fiduciary responsibilities.
Section 10-3-1104, C.R.S.	Unfair methods of competition and unfair or deceptive acts or practices.
Section 10-3-1304 C.R.S.	Identification of parts.
Section 10-3-1305, C.R.S.	Disclosure.
Section 10-4-116 C.R.S.	Use of credit information.
Section 10-4-119, C.R.S.	Monthly and electronic payment of premiums.
Section 10-4-120, C.R.S.	Unfair or discriminatory trade practices – legislative declaration.
Section 10-4-401, C.R.S.	Purpose – applicability.
Section 10-4-402, C.R.S.	Definitions.
Section 10-4-403, C.R.S.	Standards for rates – competition – procedure – requirement for independent actuarial opinions regarding 1991 legislation.
Section 10-4-404, C.R.S.	Rate administration.
Section 10-4-404.5, C.R.S.	Rating Plans – property and casualty type II insurers – rules.
Section 10-4-407, C.R.S.	Hearings.
Section 10-4-415, C.R.S.	Prohibition of anticompetitive behavior.
Section 10-4-416, C.R.S.	Prohibited changes in rates or coverages.
Section 10-4-417, C.R.S.	False or misleading information.
Section 10-4-418, C.R.S.	Enforcement procedures – penalties.
Section 10-4-601, C.R.S.	Definitions.
Section 10-4-602, C.R.S.	Basis for cancellation.
Section 10-4-603, C.R.S.	Notice.
Section 10-4-604, C.R.S.	Nonrenewal.
Section 10-4-604.5, C.R.S.	Issuance or renewal of insurance policies – proof of insurance provided by certificate, card, or other media.
Section 10-4-606, C.R.S.	Further notice.
Section 10-4-609, C.R.S.	Insurance protection against uninsured motorists – applicability.
Section 10-4-610, C.R.S.	Property damage protection against uninsured motorists.
Section 10-4-611, C.R.S.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613, C.R.S.	Glass repair and replacement.
Section 10-4-614, C.R.S.	Inflatable restraint system – replacement – verification of claims.
Section 10-4-616, C.R.S.	Disclosure of credit reports.
Section 10-4-619, C.R.S.	Coverage compulsory.
Section 10-4-620, C.R.S.	Required coverage.
Section 10-4-621, C.R.S.	Required coverages are minimum.
Section 10-4-622, C.R.S.	Required provisions for intrastate and interstate operation.
Section 10-4-623, C.R.S.	Conditions and exclusions.
Section 10-4-625, C.R.S.	Premium payments.
Section 10-4-626, C.R.S.	Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to part 6.
	Discriminatory standards – premiums – surcharges – proof of financial

**Market Conduct Examination
Examination Methodology**

Mid-Century Insurance Company

Section 10-4-627, C.R.S.	responsibility requirements.
Section 10-4-628, C.R.S.	Refusal to write – changes in – cancellation – nonrenewal of policies prohibited.
Section 10-4-629, C.R.S.	Cancellation – renewal – reclassification.
Section 10-4-630, C.R.S.	Exclusion of named driver.
Section 10-4-632, C.R.S.	Reduction in rates for drivers aged fifty-five years or older who complete driver's education course – legislative declaration.
Section 10-4-633, C.R.S.	Certification of policy and notice forms.
Section 10-4-634, C.R.S.	Assignment of payment for covered benefits.
Section 10-4-635, C.R.S.	Medical payment coverage – disclosure – definitions.
Section 10-4-636, C.R.S.	Disclosure requirements for automobile insurance products offered – rules.
Section 10-4-637, C.R.S.	No discrimination by profession.
Section 10-4-638, C.R.S.	Retroactive adjustment of health care service claims.
Section 10-4-639, C.R.S.	Claims practices for property damage.
Section 10-4-640, C.R.S.	Operator's policy of insurance.
Section 10-4-641, C.R.S.	Rules – medical payments coverage.
Section 10-4-642, C.R.S.	Prompt payment of direct benefits – legislative declaration – definitions.
Section 10-4-643, C.R.S.	Electronic claim forms – rules.
Insurance Regulation 1-1-6	Concerning the Elements of Certification for Accident and Health Forms, Private Passenger Automobile Forms, Commercial Automobile with Individually-Owned Private Passenger Automobile-Type Endorsement Forms, Claims-Made Liability Forms and Preneed Funeral Contracts
Insurance Regulation 1-1-7	Market Conduct Record Retention
Insurance Regulation 1-1-8	Penalties and Timelines Concerning Division Inquiries and Document Requests
Insurance Regulation 5-1-2	Application and Binder Forms
Insurance Regulation 5-1-10	Concerning Rate and Rule Filing Submission Property and Casualty Insurance
Insurance Regulation 5-1-14	Penalties for Failure to Promptly Address Property and Casualty First Party Claims
Insurance Regulation 5-2-2	Concerning Renewal of Automobile Insurance Policies – Excluded Named Drivers
Insurance Regulation 5-2-12	Concerning Automobile Insurance Consumer Protections
Insurance Regulation 5-2-13	Automobile Insurance Coverage for U.S. Military Personnel Called to Active Duty
Insurance Regulation 5-2-15	Concerning Consumer Protection for Vehicle Valuation and Rental Reimbursement
Insurance Regulation 6-1-1	Limiting Coverage
Insurance Regulation 6-2-1	Complaint Record Maintenance

Prior Examinations

Mid-Century was the subject of a previous market conduct examination which was completed May 14, 2003, for the period of May 1, 2002 to March 15, 2003.

Company Operations/Management

The examiners reviewed Company management, quality controls, record retention, antifraud plan, forms

certification, and timely cooperation throughout the examination process.

Advertising, Marketing and Sales

Mid-Century provided all the advertising and sales materials utilized during the period under examination. There were thirty-one (31) print materials, twenty-four (24) television ads and twenty (20) radio ads for a total of seventy-five (75) advertising and sales materials. All the materials were tested for compliance with Colorado insurance law.

Complaint Handling

Mid-Century provided its complaint handling guidelines and/or procedures and a listing of the complaints filed with the Colorado Division of Insurance. The Division provided the examiners with a listing of thirty-three (33) complaints received by the Division during the period under examination. Mid-Century's listing was reconciled to the Division's complaint listing, and testing determined that all of the Division's complaints were on Mid-Century's listing.

A review of selected complaints, which were selected based on cancellation reasons, was completed to understand Mid-Century's procedures for all types of cancellations. The review evaluated Company cancellation reasons and when and how notification of the right to protest was provided.

Producers/Agents

Mid-Century provided a list of 1,385 producer/agents that were active and terminated during the period under examination. All of the agents of record for the sampled newly issued underwriting files were tested to determine if all the agents were licensed at the time of policy issuance.

Contract Forms

Mid-Century provided a list of forms, which it had determined were in use during the period under examination. Mid-Century also provided the forms certifications listings provided to the Division during 2008 and 2009. The examiners reviewed the forms provided and they were reconciled to Mid-Century's filed form certifications. In addition, the forms discovered during review of sampled files were compared to Mid-Century's lists to determine if the forms were provided when requested and whether the forms were certified prior to use.

Form Title	Edition/Form Date	Form Number
Generic Declaration Page	7 th	56-5002
Your E-Z Reader Car Policy-CO	3 rd	56-5067
Your E-Z Reader Motorcycle	2 nd	56-5083
Your Motorhome Plus Policy (Readable)	2 nd	56-5275
Declaration Page	1 st	56-5605
Declaration Page	1 st	56-5703
Supplemental Dec Page	6-09	56-5704
Amending Definition of Insured Person Under Pt1-Liability	1 st	94-0498
Endorsement Amending Part II-Uninsured Motorist Coverage	1 st	94-0708
Part II-Uninsured Motorist Coverage C	1 st	94-0780
End Amending Part II-Uninsured Motorist Coverage	1 st	94-1236
Part II-Uninsured Motorist Coverage C	1 st	94-1327
Part II-Uninsured Motorist Coverage C	2 nd	94-1327

**Market Conduct Examination
Examination Methodology**

Mid-Century Insurance Company

End Adding Uninsured Motorist Coverage	1 st	94-1331
End Adding Personal Injury Protection Coverage	1 st	94-1332
Endorsement Amending Condition 8	1 st	94-1333
End Amending Part II-Uninsured Motorist Coverage	1 st	94-1334
Uninsured Motorist Property Damage Endorsement	1 st	94-1335
Motorcycle Amendatory Endorsement	1 st	94-1572
Endorsement Amending Definitions	1 st	94-1572
Certificate of Insurance/Additional Insured	1 st	94-1852
Joint Ownership Coverage	1 st	94-1853
Replacing Prior Policy	1 st	91-0004
Monthly Payment Agreement	1 st	91-0022
Superseding Policy	1 st	91-0079
Single Limit of Liability	1 st	91-0105
Amending Part IV-Damage to Your Motor Home	1 st	91-1022
Rental Reimbursement-Owner Vehicle	1 st	91-1039
Accidental Death Indemnity & Spec Disability Benefits	3 rd	91-1102
Trailer; Travel Trailer or Camper Endorsement	2 nd	91-1104
Extend Theft CVG to Sound & Radio Equip; Tapes etc	1 st	91-1119
Adding Property Damage to UM CVG	2 nd	91-1122
Residual Debt Endorsement	1 st	91-1131
Certificate of Insurance/Additional Insured	6 th	91-1136
Customizing Equipment Coverage	1 st	91-1138
Temporary Coverage Endorsement	2 nd	91-1144
Part 1-Lian-Other Ins Permissive User Limitation	1 st	91-1146
Endorsement Defining Limits of Liability-Your Insured Car	2 nd	91-1151
Glass Coverage Endorsement-Farm Machinery	1 st	91-1152
Amending Definition of Insured Person	2 nd	91-1154
Fire; Theft and Upset on Farm Machinery	1 st	91-1156
Temporary Dual Coverage	2 nd	91-1159
Broad Form Lienholders Single Interest Endorsement	1 st	91-1161
Loss of Use Endorsement	4 th	91-1167
Fire; Theft and Upset on Farm Tractors	1 st	91-1170
Non-Owner Policy Endorsement	3 rd	91-1190
Endorsement Increasing Personal Property Coverage	1 st	91-1193
Use of Other Automobiles-Broad Form	2 nd	91-1197
Amended Business Use Exclusion	1 st	91-1200
Amending Customizing Equipment Exclusion	1 st	91-1248
Restrictive Use Endorsement	3 rd	91-1252
Participating Deductible For Coverages F and/or G	1 st	91-1300
Safety Glass Deductible Buyback-Coverage F	2 nd	91-1401
Safety Glass-Waiver of Deductible Part IV	1 st	91-1417
Customizing Equipment Coverage	1 st	91-1438
Loss Payable Clause Endorsement	2 nd	91-6146
Single Limit of Liability	1 st	92-1155
Extend Theft CVG to Sound & Radio Equip; Tapes etc	1 st	92-1160
Broad Form Lienholders Single Interest Endorsement	1 st	92-1161
Safety Glass Deductible Buyback-Coverage F	1 st	92-1171
Monthly Payment Agreement	1 st	93-6273
Superseding Policy	1 st	93-6274
Rental Reimbursement-Owned Vehicle	1 st	93-6276

**Market Conduct Examination
Examination Methodology**

Mid-Century Insurance Company

Accidental Death Indemnity & Spec Disability Benefits	1 st	93-6277
Loss of Use Endorsement	1 st	93-6279
Non-Owner Policy Endorsement	1 st	93-6280
Use of Other Automobiles-Broad Form	1 st	93-6281
Restrictive Use Endorsement-Your Insured Car	1 st	93-6282
Participating Deductible for Coverages F and/or G	1 st	93-6283
Safety Glass-Waiver of Deductible Part IV	1 st	93-6284
Replacing Prior Policy	1 st	93-6297
Trailer, Travel Trailer or Camper Endorsement	1 st	93-6477
Residual Debt Endorsement	1 st	93-6478
Customizing Equipment Coverage	1 st	93-6480
Temporary Coverage Endorsement	1 st	93-6481
Endorsement Defining Limits of Liability-Your Insured Car	1 st	93-6482
Amending Part IV-Damage to Your Motor Home	1 st	93-6486
Endorsement Increasing Personal Property Coverage	1 st	93-6487
Glass Coverage Endorsement (Farm Machinery)	1 st	93-6496
Fire, Theft and Upset on Farm Machinery	1 st	93-6497
Fire; Theft and Upset on Farm Tractors	1 st	93-6498
Household Pet Coverage End	1 st	93-6547
Replacement Cost Benefits for New Cars	1 st	93-6561
New Car Pledge Coverage	1 st	93-6562
Declining Deductible Endorsement	1 st	93-6563
Rate Shield Endorsement	1 st	93-6564
Loss Payable Clause Endorsement	1 st	93-6670
Increased Customized Equipment Coverage	1 st	93-6673
Customizing Equipment Endorsement	1 st	93-6674
Household Pet Coverage	1 st	93-6683
End Amending Definitions; Part IV-Damage	1 st	93-6774
Rate Shield Endorsement	1 st	93-6472
Amending No Fault Provisions & Cancellation	3 rd	90-0702
Motorcycle Amendatory Endorsement	1 st	90-0703
Amending No-Fault – PIP	5 th	90-0704
Amending Part III –No-Fault; CVG D – PPO Option	3 rd	90-0707
Adding Uninsured Motorist CVG – MTRHM Plus	3 rd	90-0711
Adding PIP Coverage – MTRHM Plus	5 th	90-0712
Amending Condition 8 – MTRHM Plus	1 st	90-0713
Endorsement Amending Part II – Uninsured Motorist Coverage	4 th	90-0721
Customizing Equipment Coverage Endorsement	1 st	92-1168
Endorsement Cancelling an Endorsement	1 st	93-6476
Cancellation Endorsement	1 st	91-0208
Customer Loyalty Certificate Endorsement Amending Conditions	1 st	91-1018
Certificate of Insurance - Additional Insured	2 nd	91-1136
Non-pay Notice (Not on 2008 Certification)	12-07	25-0005
Non-pay Notice (Not on 2009 Certification)	10-08	25-0005
Notice of Cancellation of Mortgagee or Other Interest	03/07	25-1203
Offer of Renewal	3/07	25-1901
Colorado Evidence of Insurance ID Card	1/07	25-2021
Notice of Earned Premium Due	3/07	25-2052

**Market Conduct Examination
Examination Methodology**

Mid-Century Insurance Company

Financial Responsibility (SR-24) (Not Certified 2008)	5/96	25-2071
Uninsured Motorist Explainer	6/92	25-2415
Certificate of Insurance	10/07	25-2866
Dear P/H – (Optional Limits of UM Coverage)	6/09	25-3401
Annual Proxy	6/08	25-4096
Visa Stuffer for Standard Bill Credit Card	3/08	25-4110
Policy Endorsement	5/03	25-4225
Important Notice Regarding A Change On Your Policy	10/05	25-4251
Important Information About Your Private Passenger Automobile Policy	6/08	25-4255
FCRA – Current Carrier Notice	12/07	25-4286
Extraordinary Event Qualification Notice	2/06	25-4294
FCRA No-Hit Notice	3/06	25-4297
Your policy is on the Farmers EasyPay Monthly Plan	10/06	25-4329
Renewal/Change in Levy no money	12/06	25-4337
Change in Levy with money	12/06	25-4338
Important Information	10/08	25-4429
Waiver Medical Expense Coverage	6/08	25-4455
Medical Expense Waiver (Not on 2008 Certification)	9/08	25-4467
FCRA Notice Prior carrier	6/09	25-4479
NB – Policyholder Letter – Flex – Rate Shield	7/07	25-4542
NB – Policyholder Letter – Declining Deductible	7/07	25-4543
NB – Policyholder Letter – New Car Pledge	7/07	25-4547
NB – Policyholder Letter – Flex Package with Plus	7/07	25-4551
NB – Policyholder Letter – Flex Package with Premier	7/07	25-4552
NB – Policyholder Letter – Flex Package with Ultimate	7/07	25-4553
Financial Responsibility	1/08	25-5371
Valued Customer Notice	9/04	25-5644
Certificate of Insurance	9/08	25-6405
Declining Deductible Special Policyholder Notice	6/08	25-6133
Remove New Car Pledge Notice	6/08	25-6134
NB Policyholder letter – Flex Package with Plus	6/08	25-6135
NB Policyholder letter – Flex Package with Premier	6/08	25-6136
NB Policyholder letter – Flex with Ultimate	6/08	25-6137
Cancellation Notice (Not on 2008 Certification)	5-08	25-6431
Cancellation Notice (Not on 2009 Certification)	11-08	25-6431
Notice of Earned Premium Due	5/08	25-6433
Notice of Cancellation and to Policyholders	5/08	25-6450
Notice of Cancellation and to Policyholders	10/08	25-6450
Policy out of force	6/09	25-6454
Notice of Cancellation of Mortgagee or Other Interest	5/08	25-6458
Medical Expense Notice	6/08	25-6479
Medical Expense Notice	9/08	25-6493
Medical Expense Coverage Waiver not signed	9/08	25-6494
Certificate of Insurance	2/09	25-6495
Evidence of Insurance for Lienholder Interests – Colorado	2/09	25-6501
Notice of Expiration of Mortgagee or Other Interest	6/09	25-6513
Cancellation Notice (Insured Copy, w/Assigned Risk MSG, Mid-Century (Mortgagee))	3/08	25-7015
Notice of Cancellation and to Policyholders	12/06	25-7015

**Market Conduct Examination
Examination Methodology**

Mid-Century Insurance Company

Invoice Only	9-02	25-7020
Invoice for Cancellation	12/6	25-7070
Expiration Notice (3/07 Certified 2008, 5/01 Certified 2009)	3/07	25-7102
Auto Renewal Notice	8/01	25-7104
ID card with optional payment plan notice	6/05	25-7383
ID card without optional payment plan notice	6/05	25-7384
Fair Credit Reporting Act Notification (New Business and renewals)	7/04	25-7535
Invalid Vehicle Identification Number (VIN)	11/06	25-7620
GLBA Privacy Act Notice	2/07	25-7660
Uninsured Motorist Waiver Not Signed	8/02	25-7694
Standalone Refund Letter (Not on 2008 Certification)	6/06	25-7708
Fair Credit Reporting Act Notification (New Business and renewals)	7/04	25-7835
Offer of Renewal	2/09	25-8409
Important information about your policy	6/09	25-8501
Offer of Renewal	6/09	25-8507
Billing Plan	1/09	26-5071
Colorado Summary Disclosure Form	6/05	31-0629
Colorado Summary Disclosure Form	11/07	31-0629
Colorado summary Disclosure Form	10/08	31-0629
Uninsured Motorist Election Agreement	8/04	31-0848
Annual Mileage representation (Not on 2008 Certification)	5/08	31-4282
MOI	4/08	31-5201
Memorandum of Automobile Insurance – Colorado –binder- includes driver exclusion	2/09	31-5249
MOI	4/08	31-5282
	6/09	
MOI – FA2	12/09	31-5351
Tow and Road Service card (Not on 2008 Certification)	2/08	36-7959
Financial Responsibility (SR-26) (Not Certified 2009)	11/07	51-0201
Financial Responsibility (SR-22) (Not Certified 2009)	11/07	51-0278
Mid-Century Insurance Explainer	2/97	51-0318
Right to Protest (2008 Certification only)	5/08	51-0834
Notice of Cancellation/Nonrenewal & Notice of Increase/Decrease (2009 Certification only)	5/03	51-0834
Right to Protest	1/08	51-0834A
Right to Protest	1/08	51-0834C
Right to Protest	1/08	51-0834D
Right to Exclude Driver	10/05	51-0835
EZ Reader Policy Holder Letter Cover Page – New Business	1/99	LP-40
EZ Reader Policy Holder Letter Cover Page – Change Transactions	1/99	LP
Late Renewal Letter – Standard Billing (Easy Pay)	5/07	LP-84
Term Length Rewrite	5/07	LP-88
Change Message Page	5/08	LP-94
Change Message Page	5/08	LP-95

Rates

Mid-Century provided copies of its rate filings with the Division for the policies issued and renewed

during the period under examination. The examiners compared the tables and rates in Mid-Century's rating algorithm to the rate filings to determine if rating of issued and renewed policies was completed in compliance with Colorado insurance laws.

New Business and Renewals

Mid-Century provided its population of newly issued policies during the period under examination. The examiners used ACL™ to select a random sample of 116 policy files from a total population of 5,209 newly issued policy files.

Mid-Century provided its population of renewal policies issued during the period under examination. The examiners used ACL™ to select a random sample of 115 policy files from a total population of 3,624 renewal policy files.

Mid-Century provided its population of transferred policies issued during the period under examination. The examiners used ACL™ to select a random sample of 114 policy files from a total population of 2,834 transferred policy files.

The newly issued, transferred and renewal sampled policy files were reviewed to determine if the policies were issued and renewed in compliance with Colorado insurance laws.

Cancellations, Nonrenewals and Declinations

Mid-Century provided its population of cancelled and nonrenewed policies during the period under examination. To determine if the cancellation and nonrenewal notices Mid-Century sent were in compliance with Colorado insurance law, including notification of the right to protest Mid-Century's action, the examiners eliminated non-pay policy cancellations and terminations other than reasons that did not require such notices. The examiners then used ACL™ to select a random sample of eighty-four (84) policy files from a total reduced population of 290 cancelled or nonrenewed policies with reason codes that would have required a notice with specific requirements under Colorado insurance law.

Mid-Century provided its population of declined policies during the period under examination. There were a total population of seventy-nine (79) declined policies and all were selected for review.

The cancelled/nonrenewed and declined sampled policies were reviewed to determine if the policies were terminated or declined in compliance with Colorado insurance law.

Claim Handling

Mid-Century provided its population of claims paid during the period under examination. The examiners used ACL™ to select a random sample of 108 paid claims files from a total population of 6,173 paid claims files.

Mid-Century provided its claims denied during the period under examination. Using ACL™, the examiners selected a random sample of 107 denied claims files from a total population of 3,948 denied claims files.

Mid-Century stated it did not accept electronically submitted automobile claims, even those including claims for medical payments coverage. Mid-Century also stated it did not track individual medical claim payments separately from private passenger automobile claims. Therefore, Mid-Century was unable to provide an electronic received date that could be compared to the date the claim was resolved to

determine which claims were paid, denied or settled over forty-five (45) days and over ninety (90) days after the date they were received.

The Division agreed to allow Mid-Century to manually review samples of medical payment claims. After the examiners used ACL™ to sort the population of 649 automobile claims involving medical payments, Mid-Century reviewed and provided a listing of the over forty-five (45) days and over ninety (90) days medical payment claims. There was a population of 150 over forty-five (45) days paid and denied invoices located by Mid-Century, and a population of 288 over ninety (90) days paid and denied invoices located by Mid-Century. The first eighty-three (83) medical payment invoices in both categories were chosen for review.

Mid-Century provided its population of subrogated claims during the period under examination. Using ACL™, the examiners selected a random sample of 105 subrogation claims files from a total population of 1,031 subrogated claims files.

The paid, denied and medical payments claims and subrogation files were reviewed to determine if the claims were processed in compliance with Colorado insurance laws.

EXAMINATION REPORT SUMMARY

The examination resulted in a total of twenty (20) findings in which Mid-Century was not in compliance with Colorado statutes and regulations. The following is a summary of the examiners' findings.

Company Operations and Management: The examiners identified two (2) areas of concern in their review of Mid-Century's Operations and Management:

Issue A1: Failure to retain and provide medical payment claims received dates as required for testing of timeliness of paid and denied medical payment claims for market conduct purposes.

Issue A2: Failure, in some instances, to provide requested records and/or documentation within the required time period during the course of a market conduct examination.

Advertising, Marketing and Sales: In the area of Advertising, Marketing and Sales, no issues are addressed in the report.

Complaint Handling: In the area of Complaint Handling, no issues are addressed in the report.

Producers/Agents: In the area of Producers/Agents, no issues are addressed in the report.

Contract Forms: The examiners identified five (5) areas of concern during the review of Mid-Century's contract forms.

Issue E1: Failure in some instances, to limit cancellation of a private passenger automobile policy to reasons that are allowable under Colorado insurance law.

Issue E2: Failure to provide accurate information in a form regarding the location of additional information on Mid-Century's website.

Issue E3: Failure to provide correct information regarding medical payments coverage in an automobile policy endorsement form.

Issue E4: Certifying, in the annual forms certification filing, forms that were not in compliance with Colorado insurance law.

Issue E5: Failure, in some instances, to include forms in use during the examination period on the annual certification of forms list or on a new form certification filing in compliance with Colorado insurance law.

Rates: The examiners identified two (2) areas of concern during the review of Rates:

Issue F1: Failure in some instances, to apply rating factors based on Mid-Century's filed rates, as required by Colorado insurance law.

Issue F2: Failure to use a procedure to rate uninsured motorist coverage that ensures all similarly situated individuals are treated the same in compliance with Colorado insurance law.

New Business and Renewals: The examiners identified six (6) areas of concern during the review of New Business:

Issue G1: Failure in some instances, to have applications signed and/or signed timely in compliance with Mid-Century's guidelines, and failure to retain those documents in compliance with Colorado law.

Issue G2: Failure, in some instances, to obtain signed medical payments rejections prior to issuing automobile insurance coverage without medical payments coverage as required by Colorado insurance law.

Issue G3: Failure in some instances, to provide a rate quote for all Companies within the Farmers Group for which the applicant qualified, and/or failing to offer all applicable policy discounts.

Issue G4: Failure to include notice of the right of the insured to replace coverage through an assigned risk plan in notices of premium increase upon renewal in compliance with Colorado insurance law.

Issue G5: Failure, in some instances, to provide correct notification of the right to protest a premium increase at renewal in compliance with Colorado insurance law.

Issue G6: Failure to include correct instructions in the underwriting guidelines regarding premium increases at renewal due to violations by including driver violations that occurred more than thirty-six (36) months prior to the renewal date.

Cancellations, Nonrenewals and Declinations: The examiners identified three (3) areas of concern during the review of Cancellations, Nonrenewals and Declinations:

Issue H1: Failure, in some instances, to provide and/or provide accurate cancellation/nonrenewal notices with the notification of the right to protest when required and failure to offer named driver exclusions in compliance with Colorado insurance law.

Issue H2: Failure, in some instances, to provide an offer to exclude a driver in compliance with Colorado insurance law.

Issue H3: Failure in some instances, to provide a correct Right to Protest notice for cancellation or nonrenewal in compliance with Colorado insurance law.

Issue H3: Failure in some instances, to provide a correct Right to Protest notice for cancellation or nonrenewal in compliance with Colorado insurance law. **Claims:** The examiners identified two (2) areas of concern during the review of Claims:

Issue J1: Failure, in some instances, to send a written explanation within thirty (30) calendar days after receipt of an unclear claim giving a full explanation of what additional information is needed to resolve the claim.

Issue J2: Failure in some instances, to pay, deny, or settle claims within the time frame required by Colorado insurance law.

A copy of Mid-Century's response to this final Market Conduct Report, if applicable, can be obtained upon request from the Division. Results of previous market conduct examinations are available on the

Division's website at www.dora.state.co.us/insurance or by contacting the Division.

MID-CENTURY INSURANCE COMPANY

FACTUAL FINDINGS

COMPANY OPERATIONS AND MANAGEMENT

Issue A1: Failure to retain and provide medical payment claims received dates as required for testing of timeliness of paid and denied medical payment claims for market conduct purposes.

Section 10-4-642, C.R.S., Prompt payment of direct benefits - legislative declaration – definitions states in part:

...

- (4)(d) *An insurer shall maintain claim data that is accessible and retrievable for examination by the commissioner for the current year and for the two immediately preceding years. For each claim, an insurer shall provide a claim number, date of loss, date of auto accident, date of receipt of an application for benefits, date of receipt of a claim, date of payment of a claim, and date of denial or date the claim is closed without payment. An insurer shall detail all material activities relative to a claim. A claim file shall have all material documentation relative to a claim. Each material document within a claim file shall be noted as to date received, date processed, or date sent. Detailed documentation shall be contained in each claim file to permit reconstruction of the insurer's activities relative to each claim.*

...

- (6)(a) Clean claims shall be paid, denied, or settled within thirty calendar days after receipt by the insurer if submitted electronically and within forty-five calendar days *after receipt by the insurer* if submitted by any other means.

...

- (c) Absent fraud, all claims other than clean claims shall be paid, denied, or settled within ninety calendar days *after receipt by the insurer*; ... The insurer that is exempt from the ninety-day time period due to circumstances where an investigation is incomplete or otherwise needs to be continued shall pay, deny, or settle the claim within one hundred eighty days after receipt of the claim. An insurer that is exempt from the ninety-day time period shall not be exempt from payment of the interest due pursuant to subsection (7) of this section. [Emphases added.]

Colorado Insurance Regulation 1-1-7 promulgated under the authority of § 10-1-109, (1), C.R.S., states in part:

...

Section 4. Records Required For Market Conduct Purposes

- A. *Every entity subject to the Market Conduct process shall maintain its books, records, documents and other business records in a manner so that the following practices of the entity subject to the Market Conduct process may be readily ascertained during market conduct examinations, including but*

not limited to, company operations and management, policyholder services, *claim's practices*, rating, underwriting, marketing, complaint/grievance handling, producer licensing records, and additionally for health insurers/carriers or related entities: network adequacy, utilization review, quality assessment and improvement, and provider credentialing. Records for this regulation regarding market conduct purposes shall be maintained for the current year plus two prior calendar years.

...

Section 6. Claim Records

The claim records shall be maintained so as to show clearly the inception, handling and disposition of each claim. The claim records shall be sufficiently clear and specific so that pertinent events and dates of these events can be reconstructed. [Emphases added.]

Mid-Century was not in compliance with Colorado insurance law in that it is unable to provide a date of receipt of medical payment claims in an accessible and retrievable format. The only valid received date Mid-Century can provide to be used for sampling is the original date of notice of the automobile loss occurrence. Claims for medical payments coverage are generally received after the original date of automobile loss. The inability to sort and sample based on the received date of each medical payment claim prevents examiners from properly reviewing and sampling claims based on the number of days after receipt that they were paid, denied or settled. Such sampling is required to obtain a statistically valid sample of medical payment claims for review of Mid-Century's claims handling and compliance with the requirements of Colorado insurance law with regard to prompt payment of medical payments coverage claims.

Mid-Century advised that each claim for medical payments benefits is date-stamped with the received date and will therefore be ascertainable from all files for testing purposes. To obtain a valid sample without the received date, Mid-Century offered to manually review sampled files until a statistically-valid sample size of files meeting timeliness review criteria is reached. The examiners and the Division agreed to this method since it was not possible for the examiners to review Mid-Century's population of files in aggregate for compliance. This data should have been readily available in Mid-Century's systems as required by Colorado insurance law.

Recommendation No. 1:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-4-642, C.R.S., and Colorado Insurance Regulation 1-1-7. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its record maintenance procedures to ensure all medical payments records are maintained in such a way that the received and adjudication dates are recorded in the system and can be provided within the timeframes required by Colorado insurance law.

Issue A2: Failure, in some instances, to provide requested records and/or documentation within the required time period during the course of a market conduct examination.

Colorado Insurance Regulation 1-1-7, Market Conduct Record Retention, promulgated under the authority of § 10-1-109, (1), C.R.S., states in part:

...

Section 4. Records Required For Market Conduct Purposes

- A. Every entity subject to the Market Conduct process shall maintain its books, records, documents and other business records in a manner so that the following practices of the entity subject to the Market Conduct process may *be readily ascertained during market conduct examinations*, including but not limited to, company operations and management, policyholder services, claim's practices, rating, underwriting, marketing, complaint/grievance handling, producer licensing records, and additionally for health insurers/carriers or related entities: network adequacy, utilization review, quality assessment and improvement, and provider credentialing. Records for this regulation regarding market conduct purposes shall be maintained for the current calendar year plus two prior calendar years. [Emphasis added.]

...

Section 11. Time Limits To Provide Records And To Respond To Examiners

- A. An insurer/carrier shall provide any record requested by any examiner as required by Regulation 1-1-8 or such other time period as mutually agreed upon by the examiner and the insurer/carrier. When the requested record is not or cannot be produced by the insurer/carrier within the specified time period, a violation shall be deemed to have occurred, unless the insurer/carrier can demonstrate to the satisfaction of the commissioner that the requested record cannot reasonably be provided within the specified time period of the request through no fault of its own, its agents or its contracted third party administrator.

Section 12. Records Usually Required For Examination

- A. Records required for examination usually include, but are not limited to, the following, depending on the line of business;

...

Specific records relative to these areas of operations will be requested either through prior written notification, during the pre-examination conference or during the examination. These records shall be made available to the examination staff when the staff arrives at the insurer's office or upon the date specified by the examiner in charge.

Colorado Insurance Regulation 1-1-8 promulgated under the authority of § 10-1-109, (1), 10-2-104, 10-3-109(3), and 10-16-109, C.R.S., states in part:

Section 2 Background and Purpose

The purpose of this regulation is to prescribe the time period in which all persons and entities shall respond to Colorado Division of Insurance (“Division”) inquiries, including, but not limited to, document and information requests during market conduct and financial examinations, investigations of complaints, and any other formal or informal investigation or examination conducted for the purpose of determining compliance with Colorado insurance law. In addition, the purpose of this regulation is to prescribe the penalties for failure to respond to Division inquiries within the timeframes specified in this regulation. [Emphasis added.]

Mid-Century is not in compliance with Colorado insurance law in that it failed to provide seven (7) forms in use during the period under examination as requested by the initial data call.

Form Title	Form Number	Edition Date
MOI/Sub Agreement	31-5201	4/08
MOI/Sub Agreement	31-5351	10/09
MOI/Sub Agreement	31-5282	4/08
Uninsured Motorist Endorsement	94-1327	1/08
Billing Plan	26-5071	1/09
Pets	93-6547	12/07
Financial Responsibility	25-5371	1/08

Additionally, Mid-Century is not in compliance with Colorado insurance law in that it failed to provide twenty-four (24) cancellation documents when initially requested for testing of sampled transfer files. It was only after a comment form was issued that Mid-Century provided the missing documents.

Recommendation No. 2:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of Colorado Insurance Regulations 1-1-7 and 1-1-8. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its procedures to ensure all records required for market conduct purposes are maintained and can be provided within the timeframes required by Colorado insurance law.

CONTRACT FORMS

Issue E1: Failure in some instances, to limit cancellation of a private passenger automobile policy to reasons that are allowable under Colorado insurance law.
--

10-4-602, C.R.S., Basis for cancellation, states in part:

- (1) A notice of cancellation of a policy shall be valid only if it is based on one or more of the following reasons:

...

- (c) An applicant knowingly made a false statement on the application for insurance:

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protections, promulgated under the authority of §§ 10-1-109, 10-4-601.5, 10-4-625 and 10-4-628(4), C.R.S., states in part:

...

Section 5 Rules

...

- B. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

...

4. Basis for cancellation of an automobile insurance policy . . .

...

- b. In the case of policies which have been in effect for more than sixty (60) days, an insurer may cancel a policy affording the coverages required by § 10-4-620, C.R.S., only if the cancellation is based upon one of the following reasons:

...

- (3) The applicant *knowingly* made a false statement on the application for insurance (§ 10-4-602(1)(c), C.R.S.); or . . .
[Emphasis added.]

Mid-Century's Policy states:

8. Termination or Reduction of Coverage

...

- 3(b)(iii) any insured person made a false statement on the application for insurance.

Mid-Century was not in compliance with Colorado insurance law, in that its private passenger automobile policy in some instances, allowed for cancellation of coverage for reasons prohibited under Colorado insurance law. The standard for cancelling coverage is greater than provided in Mid-Century's policy, in that it requires that an applicant *knowingly* made a false statement on the application.

Form Title	Form Number	Edition Date
Your E-Z Reader Car Policy	56-5067	10/06

Recommendation No. 3:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of §10-4-602 and Colorado Insurance Regulation 5-2-12. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division within sixty (60) days that it has revised its contract provision pertaining to termination or reduction of coverage, resulting from false statements to only apply if the false statement was made knowingly, as required by Colorado insurance law.

Issue E2: Failure to provide accurate information in a form regarding the location of additional information on Mid-Century’s website.

Section 10-3-1104, C.R.S., “Unfair methods of competition and unfair or deceptive acts or practices,” states:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

...

- (b) False information and advertising generally: Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance, or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading . . .

Mid-Century’s form (Form No. 25-4294, Edition (2/06)) stated:

Prompts to the www.farmers.com WebSite:

...

Under the *What Do I need to Know . . .* section on “Questions You May Have About Risk Assessment Indicators.” [Emphasis added.]

Mid-Century was not in compliance with Colorado insurance law, in that its “Extraordinary Event Qualification Notice” form provided a reference to a location on Mid-Century’s website that does not exist.

Form Title	Form Number	Edition Date
Extraordinary Event Qualification Notice	25-4294	2/06

Recommendation No. 4:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-3-1104, C.R.S. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division within sixty (60) days that it has revised all applicable forms to ensure that its website references are accurate and not misleading in accordance with Colorado insurance law.

Issue E3: Failure to provide correct information regarding medical payments coverage in an automobile policy endorsement form.

Section 10-4-633, C.R.S., Certification of policy and notice forms, states in part:

- (1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted no later than July 1 of each year and *shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law.* The necessary elements of the certification shall be determined by the commissioner.
- (2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any new policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner at least thirty-one days before using such policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner. *Such listing shall also contain a certification by an officer of the organization that to the best of the officer's knowledge each new policy form, endorsement, or notice form proposed to be used complies with Colorado law.* The necessary elements of the certification shall be determined by the commissioner. [Emphases added.]

Section 10-4-635, C.R.S., Medical payment coverage - disclosure - definitions, states in part:

- (1)(a) Except as otherwise provided in this subsection (1), no automobile liability or motor vehicle liability policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a *motor vehicle shall be delivered or issued for delivery in this state unless coverage is provided in the policy or in a supplemental policy for medical payments with benefits of five thousand dollars* for bodily injury, sickness, or disease resulting from the ownership, maintenance, or use of the motor vehicle. [Emphasis added.]

Mid-Century's automobile policy endorsement Form (25-4225 (5-03)), states,

YOU DO NOT HAVE NO-FAULT COVERGE UNDER THIS POLICY. PERSONAL INJURY PROTECTION IS NO LONGER AVAILABLE COVERAGE. THIS IS A REDUCTION IN COVERAGE. IN THE PLACE OF PERSONAL INJURY PROTECTION WE WILL BE OFFERING AN OPTIONAL MEDICAL COVERAGE FOR AN ADDITIONAL PREMIUM, WHICH YOU CAN ELECT BY CONTACTING YOUR AGENT. HOWEVER, YOU DO NOT HAVE MEDICAL COVERAGE

UNLESS YOU HAVE ELECTED TO PURCHASE IT BY CONTACTING YOUR
AGENT AND PAYING AN ADDITIONAL PREMIUM.

The language is repeated in several sections of the endorsement.

Mid-Century was not in compliance with Colorado insurance law in that it certified and used a form that failed to provide correct information regarding medical payment coverage by indicating that coverage was not provided unless specifically elected. As of January 1, 2009, medical payments coverage is mandatory under Colorado law unless specifically waived by the policyholder.

Form Title	Form Number	Edition Date
Policy Endorsement	25-4225	5/03

Recommendation No. 5:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of §§ 10-4-633 and 10-4-635, C.R.S. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division within sixty (60) days that it has revised its practices and procedures to ensure that all private passenger automobile forms issued by Mid-Century contain language that complies with Colorado insurance law.

Issue E4: Certifying, in the annual forms certification filing, forms that were not in compliance with Colorado insurance law.

Section 10-4-633, C.R.S., Certification of policy and notice forms, states in part:

- (1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner *listing any* policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner *issued or delivered to any policyholder in Colorado*. Such listing shall be submitted no later than July 1 of each year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.
- (2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado *shall also submit to the commissioner a list of any new* policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner *at least thirty-one days before using such policy form*, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner. Such listing shall also contain a certification by an officer of the organization that to the best of the officer's knowledge each new policy form, endorsement, or notice form proposed to be used complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner. [Emphases added.]

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protections, promulgated under the authority of §§ 10-1-109, 10-4-601.5, 10-4-625 and 10-4-628(4), C.R.S., states in part:

...

Section 5. Rules

...

B. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

...

2. Notice of proposed actions.

...

c. Insurers proposing to cancel, nonrenew, increase premium or reduce

coverage shall prominently display on the notice form, within or adjoining the paragraph entitled "*Your Right to Protest*", the following premium payment instructions: . . . [Emphasis added.]

Colorado Insurance Regulation 5-2-16, Disclosure Requirements For Private Passenger Automobile Policies, promulgated under the authority of §§ 10-1-109, 10-4-111(5), 10-4-601.5, 10-4-636, and 10-4-641(1), C.R.S., states in part:

. . .

Section 5. Rules

A. Summary Disclosure Form

1. The summary disclosure form shall provide notice in bold face letters that the policyholder should read the policy for complete details and that such summary disclosure form shall not be construed to replace any provision of the policy itself.
2. Insurers and producers shall use the attached summary disclosure form as outlined in Section 5(B). Insurers and producers shall not modify this form except to provide additional or more specific information. Insurers shall place this form on file with the Colorado Division of Insurance (Division) for public inspection.
3. Every insurer shall update and file with the Division the summary disclosure form periodically to reflect changes in major coverages and exclusions of such policies of insurance and changes in factors considered in cancellation, nonrenewal and increase-in-premium situations.

B. Disclosure Requirements

1. A licensed insurer or producer writing automobile insurance coverage must provide the summary disclosure form to applicants for insurance coverage, at the time of the initial insurance purchase and thereafter on any renewal when there are changes in major coverages and exclusions or changes in factors considered in cancellation, nonrenewal and increase-in-premium situations.
2. The summary disclosure form must be delivered to the applicant at the time of the initial insurance purchase (or renewal when applicable). Such delivery may be made in the following manner: through the insurer or producer's internet web site; by hand-delivery, facsimile or e-mail to the applicant; or if none of the foregoing modes of delivery are available, by placing a copy of the form in the mail to the applicant within 48 hours of purchase.

. . .

COLORADO PRIVATE PASSENGER AUTOMOBILE INSURANCE
SUMMARY DISCLOSURE FORM

This summary disclosure form is a basic guide to the major coverages and exclusions in your policy. It is only a general description and not a statement of contract or a policy of any kind. All coverage is subject to the terms, conditions, and exclusions of your policy and all applicable endorsements.

PLEASE READ YOUR POLICY FOR COMPLETE DETAILS! THIS SUMMARY DISCLOSURE FORM SHALL NOT BE CONSTRUED TO REPLACE ANY PROVISION OF THE POLICY ITSELF.

Complete details includes, but is not limited to, information on the method your insurer uses to calculate your unearned premium (e.g., pro rata or short rate), if you should cancel your policy mid-term or before the next renewal. This summary disclosure form also provides the factors considered for cancellation, nonrenewal and increase-in-premium. These factors are general in nature and do not represent the only reasons a policy may be terminated or changed. Please contact your agent or insurer for further information. See the information on the attached pages.

...

II. OTHER COVERAGES

A. Uninsured and Underinsured Motorist Coverage

You must be offered uninsured and underinsured motorist coverage, and it will be included in your policy unless you reject it in writing.

Uninsured Motorist coverage pays for bodily injury that you are entitled to collect from a hit-and-run or uninsured driver who is at fault for the accident.

Underinsured Motorist coverage pays for bodily injury that you are entitled to collect from an underinsured owner or driver who is at fault for the accident and when the damages exceed the driver's liability coverage.

Generally, an underinsured automobile is an automobile whose liability coverage is not enough to pay the full amount you are legally entitled to recover as damages.

Coverage may be available under multiple policies in certain circumstances. For example, a passenger in a vehicle that is not at fault in the accident may have uninsured or underinsured coverage under the policy covering the vehicle and the passenger's own policy on their vehicle(s) not involved in the accident. This adding of limits under two or more policies is commonly referred to as stacking.

Please consult your agent or insurer if you have any questions or for further details.

EXCLUSIONS - UNINSURED AND UNDERINSURED MOTORIST
COVERAGE.

Coverage is not provided for any insured who, without the written consent of the insurer, settles with any person or organization who may be liable for the bodily injury. Other exclusions may be listed in the policy.

...

C. Medical Payments Coverage

Your policy provides medical payments coverage of \$5,000 unless you reject it in writing, or in the same medium in which you completed the application for the policy.

Medical payments coverage pays for reasonable health care expenses incurred for bodily injury caused by an automobile accident, regardless of fault, up to the policy limits chosen by the insured.

Your insurer must prioritize payment of the medical payments coverage benefits in a manner consistent with § 10-4-635 (2) (b), C.R.S.

Medical payments coverage is primary to any health insurance coverage available to an insured when injured in an automobile accident.

Medical payments coverage applies to any coinsurance or deductible amount required to be paid by the person's health coverage plan as defined in § 10-16-102(22.5), C.R.S.

An insured that is injured in an automobile accident will not receive benefits from medical payments coverage for any medical expenses incurred as a result of an accident that is the fault of the insured unless medical payments coverage is purchased.

Read your policy to see who is a covered person under medical payments coverage. [Emphasis added.]

Mid-Century's Colorado Private Passenger Automobile Insurance Disclosure (31-0629 – 6-05) form stated in part,

PLEASE READ YOUR POLICY FOR DETAILS! In the event of any conflict between the policy and the disclosure form, the provisions of the policy shall prevail.

...

A. Uninsured /Underinsured Motorist Protection

...

You cannot add together two or more limits of insurance on a policy covering multiple automobiles or on multiple policies covering you as an insured. This adding of limits is commonly referred to as stacking. Any Coverage a person who occupies an automobile they do not own is excess over any other similar insurance available to such occupant.

...

C. Medical Expense Coverage

Medical Expense Coverage is an optional coverage that you may choose to purchase. . . .
[Emphases added.]

The Colorado Private Passenger Automobile Insurance Disclosure (31-0629 – 11-07) form states in part,

...

C. Medical Expense Coverage

Medical Expense Coverage is an optional coverage that you may choose to purchase. . . .
[Emphasis added.]

Mid-Century's heading for its Right to Protest Notices (51-0834A, C & D) stated,

Right to Protest Action and Request Hearing

Mid-Century was not in compliance with Colorado insurance law in that it certified, in some instances, a policy endorsement form, Colorado Summary Disclosure forms, and cancellation notices that were not in compliance with Colorado insurance law.

Form Title	Form Number	Edition Date
Policy Endorsement	25-4225	05/03
Colorado Summary Disclosure Form	31-0629	6/05
Colorado Summary Disclosure Form	31-0629	11/07

Recommendation No. 6:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-4-633, C.R.S., and Colorado Insurance Regulations 5-2-12 and 5-2-16. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division within sixty (60) days that it has revised its forms and its forms certification procedures to ensure that its current issued forms are certified and in compliance with Colorado insurance law.

Issue E5: Failure, in some instances, to include forms in use during the examination period on the annual certification of forms list or on a new form certification filing in compliance with Colorado insurance law.

Section 10-4-633, C.R.S., Certification of policy and notice forms, states in part:

- (1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner *listing any* policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner *issued or delivered to any policyholder in Colorado*. Such listing shall be submitted no later than July 1 of each year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

- (2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado *shall also submit to the commissioner a list of any new* policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner *at least thirty-one days before using such policy form*, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner. Such listing shall also contain a certification by an officer of the organization that to the best of the officer's knowledge each new policy form, endorsement, or notice form proposed to be used complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner. [Emphases added.]

Mid-Century was not in compliance with Colorado insurance law in that it failed to certify fifty-nine (59) forms prior to their use in Colorado as required.

Form Title	Form Number	Edition Date
Notice of Cancellation	25-6450 10-10	3/05
Notice of Cancellation and to Policyholders	25-6450	10/08
Waiver Medical Expense Coverage	25-4455	6/08
Cancellation Notice	25-6431	
Cancellation Notice	25-6431	10/08
Cancellation Notice	25-6431	11/08
Non-Pay Notice	25-0005	
Non-Pay Notice	25-0005	10/08
Medical Expense Waiver	25-4467	
Rate Shield	93-6472	
Expiration Notice	25-7102	3/07
Standalone Refund Letter	25-7708	6/06
Annual Mileage representation	31-4282	5/08
Tow and Road service card	36-7959	2/08

Market Conduct Examination**Mid-Century Insurance Company****Contract Forms**

Auto Declaration Page	56-5605	
Declarations Page	56-5703	6/09
Financial Responsibility (SR-24)	25-2071	5/96
Right to Exclude Driver	51-0835	10/05
Evidence of Insurance for Lienholder Interests	25-6501	2/09
Memorandum of Automobile Insurance	31-5249	2/09
Notice of Expiration of Mortgagee or Other Interest	25-6513	6/09
Important Information about your Policy	25-8501	6/09
Notice of Cancellation of Mortgagee or Other Interest	25-1203	
Dear P/H – (Optional Limits of UM Coverage)	25-3401	6/09
Cancellation Notice (Insured Copy, Mortgagee)	25-7015	3/08
Invoice for Cancellation	25-7070	
Memorandum of Insurance	31-5282	4/08
Certificate of Insurance	25-6405	9/08
Declarations Page	56-5067	10/06
Joint Owners	94-1853	10/08
Monthly Pay	93-6273	02/07
Loss of Use	93-6279	02/07
Broad Form	93-6281	0 2/07
Safety Glass Endorsement	93-6284	02/07
Custom Equipment Endorsement	93-6674	4/08
UM Endorsement	94-1326	1/08
Medical Equipment	94-1327	1/08
UMPD	94-1335	1/08
Medical Endorsement	94-1572	4/08
Billing Plan	26-5071	1/09
Pets	93-6683	5/08
Pets	93-6547	12/07
Financial Responsibility	25-5371	1/08
Additional Insured	94-1852	10/08
Certificate of Insurance	25-6495	2/09
Supplemental Declarations Page	56-5704	6/09
Rate Shield	93-6564	1/08
Trailers	93-6477	5/07
Memorandum of Insurance	31-5201	4/08
Important Information	25-4429	10/08
Medical Expense Notice	25-6479	6/08
Medical Expense Notice	25-6493	9/08
Colorado Summary Disclosure Form	31-0629	10/08
Right to Protest	51-0834	5/08
Notice of Cancellation/nonrenewal & Increase/Decrease	51-0834	5/03
Right to Protest	51-0834A	1/08
Right to Protest	51-0834C	1/08
Right to Protest	51-0834D	1/08
Rewrite Document	LP-88	8/07

Recommendation No. 7:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-4-633, C.R.S. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its procedures to ensure that its current issued forms are certified in compliance with Colorado insurance law.

RATES

Issue F1: Failure in some instances, to apply rating factors based on Mid-Century's filed rates, as required by Colorado insurance law.
--

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states in part:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

...

- (f) Unfair discrimination:

...

- (II) *Making or permitting any unfair discrimination* between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard *in the amount of premium, policy fees, or rates charged for any policy or contract of insurance*, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; . . . [Emphasis added.]

Section 10-4-404, C.R.S., Rate administration, states in part:

- (1) The commissioner shall promulgate rules and regulations which shall require each insurer to record and report its loss and expense experience and such other data, including reserves, as may be necessary to determine whether rates comply with the standards set forth in section 10-4-403. Every insurer or rating organization shall provide such information and in such form as the commissioner may require. No insurer shall be required to record or report its loss or expense experience on a classification basis that is inconsistent with the rating system used by it. The commissioner may designate one or more rating organizations or advisory organizations to assist him in gathering and in compiling such experience and data. No insurer shall be required to record or report its experience to a rating organization unless it is a member of such organization.
- (2)(a) The commissioner may require that the annual report and any such supplemental report which contains information of a company's loss and loss adjustment reserves be accompanied by an opinion signed and sworn to by a qualified and independent actuary verifying that, within the nine months prior to the submission of the report, the actuary has conducted a review and analysis of the insurance company's loss and loss adjustment reserves and the reserves are computed in accordance with accepted loss reserving standards and are fairly stated in accordance with sound loss reserving principles.

Colorado Insurance Regulation 5-1-10, Rate And Rule Filing Submission Requirements Property and Casualty Insurance, promulgated under the authority of §§ 10-1-109, 10-3-1110, 10-4-404, and 10-4-404.5, C.R.S., states in part:

...

Section 5. Rules

All rate, rule and loss cost filings shall be submitted electronically by licensed companies, rating organizations and advisory organizations (except for conditions provided by regulation). Failure to supply the information required in Subsections 5(A)(4), 5(A)(5), 5(A)(7), and 5(B)(4) of this regulation would render the filing incomplete. Incomplete filings will be rejected on or before the 15th business day after receipt. Incomplete filings are not reviewed for substantive content. All filings that are not returned on or before the 15th day after receipt will be considered complete. Filings may be reviewed for substantive content, and if reviewed, any deficiency will be identified and communicated to the filing insurer on or before the 30th business day after receipt. Correction of any deficiency, after the 30th business day, will be required on a prospective basis, and no penalty will be applied to a non willful violation identified in this manner. Nothing in this Section 5 shall render a rate filing subject to prior approval by the Division of Insurance unless otherwise subject to prior approval as provided by statute.

...

A. Rate Filings General Requirements

1. Required Submissions:

- a. All companies must submit rate filings whenever the rates charged to new or renewal policyholders differ from the rates on file with the Division of Insurance. Included in this requirement are changes due to periodic recalculation of experience or projections, change in rate calculation methodology, or change(s) in trend or other rating assumptions.
- b. Annual rate filings for homeowners insurance and private passenger automobile insurance – All foreign companies with written premiums for homeowners insurance (line 4 from the Colorado exhibit of premiums and losses from the annual statement) or private passenger automobile insurance (the sum of lines 19.1, 19.2, and 21.1 from the Colorado exhibit of premiums and losses from the annual statement) in excess of \$10,000,000 in the preceding calendar year, and all Colorado domestic companies without regard to annual written premium, must submit a homeowners and / or private passenger automobile rate filing on at least an annual basis. Each rate filing must be submitted to the Division of Insurance on or before the one-year anniversary of the filing date of the most recent rate filing made by a particular company for that line of business. "Annual rate filing" shall contain all of the items required in this regulation and the bulletin entitled, "Requirements for the Filing of Rates, Rules, Loss Cost, and Forms for Property and Casualty Carriers." The rate filing must demonstrate that the rate Mid-Century is using or proposing on using is not excessive, inadequate or unfairly discriminatory.

- c. These rate filings shall be considered “file-and-use” and treated in the same manner as rate filings from other Type II insurance lines.
[Emphasis added.]*

Mid-Century was not in compliance with Colorado insurance law in that the rating manual used to rate private passenger automobile policies contains factors that differ from the factors included in its filed rating standards as noted in the below table. Mid-Century failed to rate with the filed factors and tables established in its rate filing as of January 1, 2009 and March 1, 2009. In some instances, Mid-Century charged premiums that were not in compliance with its filed rating methodology, thereby using unfiled rates.

Rate Filing Date	Table with Rating Factor	Rating Algorithm
1/1/09	Affinity Discount	Table factors do not agree
3/1/09	Affinity Discount	Table factors do not agree
3/1/09	Rate Class Factors	Table consolidated (Coll/LOU) Factors do not agree

Recommendation No. 8:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of §§ 10-3-1104 and 10-4-404, C.R.S., and Colorado Insurance Regulation 5-1-10. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its rate filings to include the tables and factors currently in use for compliance with Colorado insurance law.

Issue F2: Failure to use a procedure to rate uninsured motorist coverage that ensures all similarly situated individuals are treated the same in compliance with Colorado insurance law.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states in part:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

...

- (f) Unfair discrimination:

...

- (II) *Making or permitting any unfair discrimination* between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard *in the amount of premium, policy fees, or rates charged for any policy or contract of insurance*, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; . . . [Emphases added.]

Section 10-4-404, C.R.S., Rate administration, states in part:

- (1) The commissioner shall promulgate rules and regulations which shall require each insurer to record and report its loss and expense experience and such other data, including reserves, as may be necessary to determine whether rates comply with the standards set forth in section 10-4-403. Every insurer or rating organization shall provide such information and in such form as the commissioner may require. No insurer shall be required to record or report its loss or expense experience on a classification basis that is inconsistent with the rating system used by it. The commissioner may designate one or more rating organizations or advisory organizations to assist him in gathering and in compiling such experience and data. No insurer shall be required to record or report its experience to a rating organization unless it is a member of such organization.
- (2)(a) The commissioner may require that the annual report and any such supplemental report which contains information of a company's loss and loss adjustment reserves be accompanied by an opinion signed and sworn to by a qualified and independent actuary verifying that, within the nine months prior to the submission of the report, the actuary has conducted a review and analysis of the insurance company's loss and loss adjustment reserves and the reserves are computed in accordance with accepted loss reserving standards and are fairly stated in accordance with sound loss reserving principles.

Colorado Insurance Regulation 5-1-10, Rate And Rule Filing Submission Requirements Property and Casualty Insurance, promulgated under the authority of §§ 10-1-109, 10-3-1110, 10-4-404, and 10-4-404.5, C.R.S., states in part:

...

Section 5. Rules

All rate, rule and loss cost filings shall be submitted electronically by licensed companies, rating organizations and advisory organizations (except for conditions provided by regulation). Failure to supply the information required in Subsections 5(A)(4), 5(A)(5), 5(A)(7), and 5(B)(4) of this regulation would render the filing incomplete. Incomplete filings will be rejected on or before the 15th business day after receipt. Incomplete filings are not reviewed for substantive content. All filings that are not returned on or before the 15th day after receipt will be considered complete. Filings may be reviewed for substantive content, and if reviewed, any deficiency will be identified and communicated to the filing insurer on or before the 30th business day after receipt. Correction of any deficiency, after the 30th business day, will be required on a prospective basis, and no penalty will be applied to a non willful violation identified in this manner. Nothing in this Section 5 shall render a rate filing subject to prior approval by the Division of Insurance unless otherwise subject to prior approval as provided by statute.

A. Rate Filings General Requirements

1. Required Submissions:

- a. All companies must submit rate filings whenever the rates charged to new or renewal policyholders differ from the rates on file with the Division of Insurance. Included in this requirement are changes due to periodic recalculation of experience or projections, change in rate calculation methodology, or change(s) in trend or other rating assumptions.
- b. Annual rate filings for homeowners insurance and private passenger automobile insurance – All foreign companies with written premiums for homeowners insurance (line 4 from the Colorado exhibit of premiums and losses from the annual statement) or private passenger automobile insurance (the sum of lines 19.1, 19.2, and 21.1 from the Colorado exhibit of premiums and losses from the annual statement) in excess of \$10,000,000 in the preceding calendar year, and all Colorado domestic companies without regard to annual written premium, must submit a homeowners and / or private passenger automobile rate filing on at least an annual basis. Each rate filing must be submitted to the Division of Insurance on or before the one-year anniversary of the filing date of the most recent rate filing made by a particular company for that line of business. "Annual rate filing" shall contain all of the items required in this regulation and the bulletin entitled, "Requirements for the Filing of Rates, Rules, Loss Cost, and Forms for Property and Casualty Carriers." The rate filing must demonstrate that the rate Mid-Century is using or proposing on using is not excessive, inadequate or unfairly discriminatory.

c. These rate filings shall be considered “file-and-use” and treated in the same manner as rate filings from other Type II insurance lines.
[Emphasis added.]

Mid-Century was not in compliance with Colorado insurance law in that it failed to establish a rating method to ensure that uninsured motorist premium amounts were the same for all similarly situated individuals. The rating manual used to rate private passenger automobile policies contained different premium amounts for uninsured motorist coverage depending on the order of vehicle submissions for new business. For legacy policies (with more than one policy in the same household at submission of new business) when an alternative fuel discount applied to one vehicle and not to the other(s), the first vehicle submitted was the one used to determine the uninsured motorist premium. This generated premiums which were lesser or greater than those that would have occurred if the vehicles had been submitted in a different order.

Recommendation No. 9:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of §§ 10-3-1104 and 10-4-404, C.R.S., and Colorado Insurance Regulation 5-1-10. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its rating practices to ensure that all uninsured motorist coverage is rated in a manner that is not unfairly discriminatory and complies with Colorado insurance law.

UNDERWRITING, NEW BUSINESS AND RENEWALS

Issue G1: Failure in some instances, to have applications signed and/or signed timely in compliance with Mid-Century's guidelines, and failure to retain those documents in compliance with Colorado law.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states in part:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:
 - (a) Misrepresentations and false advertising of insurance policies: Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, circular, statement, sales presentation, omission, or comparison which:
 - (I) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy; or
 - ...
 - (f) Unfair discrimination:
 - ...
 - (II) Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; . . .

Colorado Insurance Regulation 1-1-7, Market Conduct Record Retention, promulgated under the authority of § 10-1-109(1), C.R.S., states in part:

...

Section 3. Definitions

- A. *“Application records” mean any written or electronic application form, any enrollment form, any document used to add coverage under an existing policy, any questionnaire, telephone interview form, paramedical interview form, or any other document used to question or underwrite an applicant for a policy issued by an insurer or for any declination of coverage by an insurer.*

...

Section 4. Records Required For Market Conduct Purposes

- A. *Every entity subject to the Market Conduct process shall maintain its books, records, documents and other business records in a manner so that the following practices of the entity subject to the Market Conduct process may*

be readily ascertained during market conduct examinations, including but not limited to, company operations and management, policyholder services, claim's practices, rating, underwriting, marketing, complaint/grievance handling, producer licensing records, and additionally for health insurers/carriers or related entities: network adequacy, utilization review, quality assessment and improvement, and provider credentialing. Records for this regulation regarding market conduct purposes shall be maintained for the current calendar year plus two prior calendar years.

- B. *Each producer of record, if the carrier does not maintain, shall maintain records for each policy sold, and the records shall contain all work papers and written communications in the producer's possession pertaining to the documented policy.*

...

Section 5. Policy Records

- A. The following records shall be maintained: A policy record shall be maintained for each policy issued. Policy records shall be maintained so as to show clearly the policy period, basis for rating and any imposition of additional exclusions from or exceptions to coverage. If a policy is terminated, either by the insurer or the policyholder, documentation supporting the termination and account records indicating a return of premiums, if any, shall also be maintained. Policy records need not be segregated from the policy records of other states so long as the records are readily available to market conduct examiners as required under this regulation.

- B. Policy records shall include at least the following:

- (1) The actual, completed application for each contract, where applicable;
 - (a) *The application shall bear the signature, either written or digitally authenticated, where required, of the applicant whenever the insurer intends to retain any right to contest any warranty, representation or condition contained in the application; or*
 - (b) *The application shall bear a clearly legible means by which an examiner can identify a producer involved in the transaction. The examiners shall be provided with any information needed to determine the identity of the producer;*
- (2) Any declaration pages (the initial page and any subsequent pages), the insurance contract, any certificates evidencing coverage under a group contract, any endorsements or riders associated with a policy, any termination notices, and any written or electronic correspondence to or from the insured pertaining to the coverage. A separate copy of the record need not be maintained in the individual policy to which the record pertains, provided it is clear from the insurer's other records or systems that the record applies to a particular policy and that any data contained in the record relating to that policy, as well as the actual policy, can be retrieved or recreated; [Emphases added.]

Mid-Century was not in compliance with Colorado insurance law in that it failed to retain required records and completed documents in its files pertaining to underwriting and policy issuance activities in fifty-six (56) of the 116 new policy issue files. In addition, Mid-Century failed to comply with its own underwriting guidelines, which may have resulted in some applicants being treated unfairly when compared to other similarly situated individuals applying for coverage. Mid-Century's guidelines require a signed and dated memorandum of insurance (application for insurance) at the time of submission, which contractually binds the applicant's memorandum of insurance (MOI) to his or her policy. When one applicant is mandated to sign versus another that is not, it results in unfair discrimination between similarly situated individuals in that the MOI is part of the contractual agreement for one and not for the other.

New Private Passenger Automobile Policies

Population	Sample Size	Number of Records Provided	Number of Exceptions	Total Error Rate
5,209	116	116	56	48%

Recommendation No. 10:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-3-1104, C.R.S., and Colorado Insurance Regulation 1-1-7. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its underwriting practices and procedures to ensure that all applicants are treated fairly by acquiring and retaining applications in compliance with its underwriting guidelines and Colorado insurance law.

Issue G2: Failure, in some instances, to obtain signed medical payments rejections prior to issuing automobile insurance coverage without medical payments coverage as required by Colorado insurance law.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states in part:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

...

- (f) Unfair discrimination:

...

- (II) *Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; [Emphasis added.]*

Section 10-4-635, C.R.S., Medical payments coverage - disclosure - definitions, states in part:

- (1)(a) Except as otherwise provided in this subsection (1), no automobile liability or motor vehicle liability policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall be delivered or issued for delivery in this state unless coverage is provided in the policy or in a supplemental policy for medical payments with benefits of five thousand dollars for bodily injury, sickness, or disease resulting from the ownership, maintenance, or use of the motor vehicle.
- (b) *A policy may be issued without medical payments coverage only if the named insured rejects medical payments coverage in writing or in the same medium in which the application for the policy was taken. The insurer shall maintain proof that a named insured rejected medical payments coverage for at least three years after the date of the rejection, and such proof of rejection shall be presumed valid for all insureds under the policy, including resident relatives of the named insured and permissive users of the motor vehicle. An agent or insurer that obtains a rejection of medical payments coverage from the named insured or applicant pursuant to this section shall not be liable to the insured or any other person seeking benefits under the named insured's policy for claims arising out of or relating to the rejection of medical payments coverage. [Emphasis added.]*

- (c) If the insurer fails to offer medical payments coverage or fails to maintain or provide proof that the named insured rejected medical payments coverage in the manner required by this section, the insured's policy shall be presumed to include medical payments coverage with benefits of five thousand dollars. . .

Mid-Century was not in compliance with Colorado insurance law in that it failed to in some instances to obtain a signed rejection of medical payments coverage prior to issuing coverage without medical payments coverage. Based on information in the sampled new business files, the examiners determined that fifty-eight (58) of the 116 applicants elected to waive medical payments coverage; however, Mid-Century failed to obtain a medical payments waiver prior to issuance of an automobile insurance policy for twenty (20) of the applicable applicants, resulting in an exception rate of thirty-four percent (34%) of the applicable files. In addition, Mid-Century failed to follow its own underwriting guidelines for those applicants. Mid-Century's FA2 underwriting guidelines state, "Medical Payments coverage is mandatory as required by law, but can be rejected in writing."

New Private Passenger Automobile Policies

Population	Sample Size	Number of Apps Waiving Med Pay	Number of Exceptions	Total Error Rate
5,209*	116	58	20	34%

Recommendation No. 11:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of §§ 10-3-1104 and 10-4-635, C.R.S. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its practices and procedures to ensure that it does not issue a policy without medical payments coverage unless it has obtained a signed and dated rejection form from the applicant prior to issuance of the policy and that it retains the rejection form with the policy record as required by Colorado insurance law.

Issue G3: Failure in some instances, to provide a rate quote for all Companies within the Farmers Group for which the applicant qualified, and/or failing to offer all applicable policy discounts.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states in part:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

...

- (f) Unfair discrimination:

...

- (II) *Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; [Emphasis added]*

Mid-Century was not in compliance with Colorado insurance law in that it failed to provide a rate quote for all companies within the Farmers Group for which the applicant was eligible, and to offer to provide coverage in Mid-Century which would provide coverage for the lowest premium. It is an unfairly discriminatory practice to not rate each applicant in each company within the Farmers Group for which the applicant is eligible, and to offer coverage with Mid-Century which provides the best coverage with the least amount of premium. In addition, it is also unfairly discriminatory to not allow all discounts for which an applicant qualifies. The following exceptions were identified during the review of new business applications:

- Mid-Century failed to underwrite/rate with both Mid-Century and Farmers Insurance Exchange to determine which Company offered the least amount of premium for the same coverage for twenty-one (21) of the 116 applicants in the sample files.
- Mid-Century failed to apply the multi-car discount for two (2) applicants in the sample files.
- One (1) file in the sample failed for both exceptions noted above.

New Private Passenger Automobile Policies

Population	Sample Size	Number of Exceptions	Total Error Rate
5,209*	116	22	19%

Recommendation No. 12:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-3-1104, C.R.S. In the event Mid-Century is unable to provide such documentation, it should be required to provide written evidence to the Division that it has revised its practices and procedures to ensure that it provides a rate quote for all Companies within the Farmers Group for which the applicant qualifies and offers all applicable policy discounts in compliance with Colorado insurance law.

Issue G4: Failure to include notice of the right of the insured to replace coverage through an assigned risk plan in notices of premium increase upon renewal in compliance with Colorado insurance law.

Section 10-4-629, C.R.S., Cancellation – renewal – reclassification, states in part:

- (1) *Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.*
- (2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:
 - (a) The proposed action to be taken, including, if the action is an increase in premium or reduction in coverage, the amount of increase and the type of coverage to which it is applicable or the type of coverage reduced and the extent of the reduction;
 - (b) *The proposed effective date of the action;*
 - ...
 - (e) *The right of the insured to replace the insurance through an assigned risk plan; [Emphases added.]*
 - (f) The right of the insured to protest the proposed action and request a hearing thereon before the commissioner by signing two copies of the notice and sending them to the commissioner within ten days after receipt of the notice;
 - ...
- (4) *An insured shall have the right to protest the proposed action of the insurer by signing two copies of the notice and sending them to the commissioner within ten days after receipt of the notice. The commissioner shall, upon receipt of a protest, notify the insurer of the filing of the protest. [Emphases added.]*

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protections, promulgated under the authority of §§ 10-1-109, 10-4-601.5, 10-4-625 and 10-4-628(4), C.R.S., states in part:

...

Section 5. Rules

...

B. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

...

2. Notice of proposed actions.

- a. A proposal to cancel, nonrenew, increase the premium or reduce coverage under a private passenger motor vehicle insurance policy shall state the actual reason for proposing such action in the notice required by § 10-4-629(2)(c), C.R.S. Only one notice is required to be sent, in triplicate, to the insured whose incident resulted in the proposed action. The notice required by § 10-4-629 (2) (c), C.R.S. shall be separate and distinct from any other information delivered to the insured, including but not limited to the renewal notice. *The statement of reasons shall be clear and specific so that a reasonable person can understand it. The insurer shall clearly describe its underwriting rule, policy or guideline which is the basis for the proposed action.* A simple recitation of dates and incidents, without further detail, is not acceptable and may cause the insurer's proposed action to be disallowed. [Emphasis added.]

Mid-Century was not in compliance with Colorado insurance law in that it failed to include the notice of the right to replace coverage through an assigned risk plans with the notices of premium increase at renewal for 113 of the 115 sample files.

Renewed Private Passenger Automobile Policies

Population	Sample Size	Number of Exceptions	Total Error Rate
3,604*	115	113	98%

Recommendation No. 13:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-4-629, C.R.S., and Colorado Insurance Regulation 5-2-12. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its premium increase notices to ensure that such notices include notice of the right to replace insurance through an assigned risk plan in compliance with Colorado insurance law.

Issue G5: Failure, in some instances, to provide correct notification of the right to protest a premium increase at renewal in compliance with Colorado insurance law.

Section 10-4-629, C.R.S, Cancellation – Renewal – reclassification, states in part:

- (1) *Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.*
- (2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:
 - (a) The proposed action to be taken, including, if the action is an increase in premium or reduction in coverage, the amount of increase and the type of coverage to which it is applicable or the type of coverage reduced and the extent of the reduction;
 - (b) The proposed effective date of the action;
 - (c) The insurer's actual reasons for proposing to take such action. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without making further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morale", or "violation or accident record" shall not suffice to meet the requirements of this subsection (2).
 - (d) If there is coupled with the notice an offer to continue or renew *the policy* in accordance with this section, the name of the person or persons to be excluded from coverage and what the premium would be if *the policy* is continued or renewed with such person or persons excluded from coverage;
 - (e) The right of the insured to replace the insurance through an assigned risk plan;
 - (f) The right of the insured to protest the proposed action and request a hearing thereon before the commissioner by signing two copies of the notice and sending them to the commissioner within ten days after receipt of the notice;

- (g) That, if a protest is filed by the insured, the current insurance will remain in effect until a determination is made by the commissioner upon payment of any lawful premium due or becoming due prior to the determination;
- (h) The authority of the commissioner to award reasonable counsel fees to the insured for services rendered to the insured in connection with any such hearing if the commissioner finds the proposed action of the insurer to be unjustified. [Emphases added.]

The Division and Mid-Century reached an agreement during 2008 concerning Right to Protest notices. Mid-Century's letter to the Division stated in part:

2. Named Driver Exclusion Procedure:

As of May 1, 2008 Farmers will only apply named driver exclusions to the policy that is being renewed and not to any other policy within the household.

For households with more than one policy, Farmers will only apply named driver exclusions as each policy approaches renewal. Farmers will continue to evaluate the drivers on renewal, including with respect to any citations or accidents.

Mid-Century's NIP RTP Letter Processing Guide states in part:

Excluded Policy Field – List the policy number in this field that we are offering the exclusion for. If multiple policies in the household are renewing on the same day, we can list these policy numbers in this field and offer to exclude the driver in question on all of these policies that renew the same day. Please separate policy numbers by a comma and space. . . .

Mid-Century was not in compliance with Colorado insurance law in that, in some instances, it provided multiple policy numbers on the notification of the right to protest in the excluded driver section of the renewal form.

Of the 115 sampled files reviewed, nineteen (19) files had multiple policy numbers listed on the driver exclusion offer. Mid-Century provided only one premium increase notice with a driver exclusion offer and notification of the right to protest. Mid-Century failed to provide separate notices for each policy of the driver exclusion offer and right to protest in these nineteen (19) files.

In addition, Mid-Century failed to comply with the agreement it reached with the Division dated May 1, 2008, in which Mid-Century stated it would meet the requirements of Colorado insurance law with regard to the listing of multiple policy numbers to which the offer to exclude a driver would apply if accepted.

Renewed Private Passenger Automobile Policies

Population	Sample Size	Number of Exceptions	Total Error Rate
3,604	115	19	17%

Recommendation No. 14:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-4-629, C.R.S. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its operations to ensure that the offer to exclude a named driver on the Right to Protest Notices is applicable to only one renewal policy in compliance with Colorado insurance law and the prior agreement reached between Mid-Century and the Division.

Issue G6: Failure to include correct instructions in the underwriting guidelines regarding premium increases at renewal due to violations by including driver violations that occurred more than thirty-six (36) months prior to the renewal date.

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protections, promulgated under the authority of §§ 10-1-109, 10-4-601.5, 10-4-625 and 10-4-628(4), C.R.S., states in part:

...

Section 5. Rules

...

B. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

...

3. Application of time limitations.

In reviewing protests under § 10-4-629, C.R.S., the Division of Insurance will apply the following time limitations:

- a. *If the insurer bases its action upon the fact that an insured has been involved in an accident which resulted in payment under the policy and/or has been convicted of a motor vehicle violation, the insurer may base its action on convictions or accidents which occurred during the thirty-six (36) month period immediately preceding the date of the proposed action for that individual insured under the policy. However, in case of nonrenewals, increase in premiums, or reduction in coverage, in order to take action upon incidents occurring during this thirty-six (36) month period, at least one (1) incident must have occurred during the fifteen (15) month period immediately preceding the next renewal date for each individual upon whom the proposed action is being attempted. Cancellations are subject to the restrictions set forth in § 10-4-602, C.R.S. [Emphasis added.]*

Mid-Century's underwriting guidelines state in part,

Citation Surcharge

The experience period for renewal business is the three-year period ending 60 days before the renewal effective date.

Mid-Century's underwriting guidelines and its underwriting practices were not in compliance with Colorado insurance law in that its renewal procedures rated policies based on accidents and moving violations for a period of greater than thirty-six (36) months from the renewal date.

Recommendation No. 15:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of Colorado Insurance Regulation 5-2-12. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its policies and procedures to ensure that renewal policy rating only allows for accidents and moving violations of thirty-six (36) months or less from the date of renewal in compliance with Colorado insurance law.

CANCELLATIONS, NONRENEWALS AND DECLINATIONS

Issue H1: Failure, in some instances, to provide and/or provide accurate cancellation/nonrenewal notices with the notification of the right to protest when required and failure to offer named driver exclusions in compliance with Colorado insurance law.

Section 10-4-629, C.R.S., Cancellation – renewal – reclassification, states in part:

- (1) *Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.*
- (2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:
 - (a) The proposed action to be taken, including, if the action is an increase in premium or reduction in coverage, the amount of increase and the type of coverage to which it is applicable or the type of coverage reduced and the extent of the reduction;
 - (b) The proposed effective date of the action;
 - (c) *The insurer's actual reasons for proposing to take such action. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without making further inquiry.* Generalized terms such as "personal habits", "living conditions", "poor morale", or "violation or accident record" shall not suffice to meet the requirements of this subsection (2).
 - (d) *If there is coupled with the notice an offer to continue or renew the policy in accordance with this section, the name of the person or persons to be excluded from coverage and what the premium would be if the policy is continued or renewed with such person or persons excluded from coverage.* [Emphases added.]

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protections, promulgated under the authority of §§ 10-1-109, 10-4-601.5, 10-4-625 and 10-4-628(4), C.R.S., states in part:

...

Section 5. Rules

...

B. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

...

2. Notice of proposed actions.

- a. A proposal to cancel, nonrenew, increase the premium or reduce coverage under a private passenger motor vehicle insurance policy shall state the actual reason for proposing such action in the notice required by § 10-4-629(2)(c), C.R.S. Only one notice is required to be sent, in triplicate, to the insured whose incident resulted in the proposed action. The notice required by § 10-4-629 (2) (c), C.R.S. shall be separate and distinct from any other information delivered to the insured, including but not limited to the renewal notice. *The statement of reasons shall be clear and specific so that a reasonable person can understand it. The insurer shall clearly describe its underwriting rule, policy or guideline which is the basis for the proposed action.* A simple recitation of dates and incidents, without further detail, is not acceptable and may cause the insurer's proposed action to be disallowed.
- b. *Insurers proposing to cancel, nonrenew, increase premium or reduce coverage shall, set apart and prominently display as the first sentence of the "Your Right to Protest" paragraph the insured's ability to protest the insurers action by mailing two copies of the notice to the Division of Insurance within ten (10) days of receipt of said notice.*
- c. *Insurers proposing to cancel, nonrenew, increase premium or reduce coverage shall prominently display on the notice form, within or adjoining the paragraph entitled "Your Right to Protest", the following premium payment instructions:*
In order to continue your coverage during the period the proposed action is protested, you must continue to make payments according to your current premium payment plan until a decision is made by the hearing officer. You may contact your producer (agent) or Mid-Century at (phone number) for further information. Please note that Mid-Century may bill you later for any premium difference occurring if Mid-Century's action is upheld. This is the only notification you will receive to pay the premium due to continue coverage. If the premium is not paid prior to the effective date of the action listed on the notice, the coverage will lapse.

The insurer shall accept an insured's payment provided such payment is in accordance with the current premium payment plan. [Emphases added.]

Mid-Century was not in compliance with Colorado insurance law in that it failed to provide notice of cancellation/nonrenewal that contained all required information or failed to provide a notice of cancellation/nonrenewal when required. Of the eighty-four (84) sampled cancellation/nonrenewal files, twelve (12) files had incorrect or missing information. Mid-Century's Right to Protest (RTP) notices failed to:

- be provided for five (5) policyholders when they were mandated,
- provide seven (7) policyholders with notice of the right to protest, and/or
- provide twelve (12) policyholders with a correct premium offer for excluding a driver or did not provide a premium for an excluded driver when required.

Cancellation/Nonrenewal File Review

Population	Sample Size	Number of Exceptions	Total Error Rate
290*	84	12	14%

(*Files with mid-term cancellations/nonrenewal notices)

Recommendation No. 16:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-4-629, C.R.S and Colorado Insurance Regulation 5-2-12. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its procedures to ensure that all cancellation and nonrenewal notices are issued in compliance with Colorado insurance law.

Issue H2: Failure, in some instances, to provide an offer to exclude a driver in compliance with Colorado insurance law.

Section 10-4-629, C.R.S, Cancellation – Renewal – reclassification, states in part:

- (1) *Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6. [Emphasis added.]*
- (2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:
 - (a) The proposed action to be taken, including, if the action is an increase in premium or reduction in coverage, the amount of increase and the type of coverage to which it is applicable or the type of coverage reduced and the extent of the reduction;
 - (b) The proposed effective date of the action;
 - (c) The insurer's actual reasons for proposing to take such action. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without making further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morale", or "violation or accident record" shall not suffice to meet the requirements of this subsection (2).
 - (d) If there is coupled with the notice an offer to continue or renew *the policy* in accordance with this section, the name of the person or persons to be excluded from coverage and what the premium would be if *the policy* is continued or renewed with such person or persons excluded from coverage;
 - (e) The right of the insured to replace the insurance through an assigned risk plan;
 - (f) The right of the insured to protest the proposed action and request a hearing thereon before the commissioner by signing two copies of the notice and sending them to the commissioner within ten days after receipt of the notice;

- (g) That, if a protest is filed by the insured, the current insurance will remain in effect until a determination is made by the commissioner upon payment of any lawful premium due or becoming due prior to the determination;
- (h) The authority of the commissioner to award reasonable counsel fees to the insured for services rendered to the insured in connection with any such hearing if the commissioner finds the proposed action of the insurer to be unjustified.

The Colorado Insurance Division and Mid-Century reached an agreement during 2008 concerning Right to Protest notices. Mid-Century's letter to the Colorado Insurance Division stated in part:

2. Named Driver Exclusion Procedure:

As of May 1, 2008 Farmers will only apply named driver exclusions to the policy that is being renewed and not to any other policy within the household.

For households with more than one policy, Farmers will only apply named driver exclusions as each policy approaches renewal. Farmers will continue to evaluate the drivers on renewal, including with respect to any citations or accidents.

Mid-Century's NIP RTP Letter Processing Guide states in part:

Excluded Policy Field – List the policy number in this field that we are offering the exclusion for. If multiple policies in the household are renewing on the same day, we can list these policy numbers in this field and offer to exclude the driver in question on all of these policies that renew the same day. Please separate policy numbers by a comma and space. . .

Mid-Century was not in compliance with Colorado insurance law in that it provided multiple policy numbers on Cancellation/Nonrenewal Right to Protest Notices in the excluded driver section of the form.

Of the eighty-four (84) sampled cancellation/nonrenewal files, forty-four (44) policyholders were provided notices with multiple policy numbers in the offer to exclude a driver. Additionally, Mid-Century was not in compliance with its agreement with the Division effective May 1, 2008.

Cancellation/Nonrenewal File Review

Population	Sample Size	Number of Exceptions	Total Error Rate
290	84	44	52%

Recommendation No. 17:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-4-629, C.R.S. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its operations to ensure that notice of cancellations/nonrenewals are issued in compliance with Colorado insurance law and the prior agreement between Mid-Century and the Division.

Issue H3: Failure in some instances, to provide a correct Right to Protest notice for cancellation or nonrenewal in compliance with Colorado insurance law.

Section 10-4-629, C.R.S., Cancellation - renewal – reclassification, states in part:

...

- (2) *An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:*
- (a) *The proposed action to be taken, including, if the action is an increase in premium or reduction in coverage, the amount of increase and the type of coverage to which it is applicable or the type of coverage reduced and the extent of the reduction;*
- (b) *The proposed effective date of the action;*

...

- (4) *An insured shall have the right to protest the proposed action of the insurer by signing two copies of the notice and sending them to the commissioner within ten days after receipt of the notice. The commissioner shall, upon receipt of a protest, notify the insurer of the filing of the protest. [Emphases added]*

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer protections promulgated by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-4-601.5, 10-4-625 and 10-4-628(4), C.R.S., states in part:

...

Section 5. Rules

...

B. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

2. Notice of proposed actions.

- a. A proposal to cancel, nonrenew, increase the premium or reduce coverage under a private passenger motor vehicle insurance policy shall state the actual reason for proposing such action in the notice required by § 10-4-629(2)(c), C.R.S. Only one notice is required to be sent, in triplicate, to the insured at the insured's last known address. *The notice required by § 10-4-629(2)(c), C.R.S. shall be separate and distinct from any other information delivered to the*

insured, including but not limited to the renewal notice. The date of the mailing shall be clearly identifiable on the first page of the notice. The statement of reasons shall be clear and specific so that a reasonable person can understand it. The insurer shall clearly describe or quote its underwriting rule, policy or guideline which is the basis for the proposed action. A simple recitation of dates and incidents, without further detail, is not acceptable and may cause the insurer's proposed action to be disallowed. [Emphasis added.]

Mid-Century's notices of the right to protest issued as a result of a cancellation or nonrenewal were not in compliance with Colorado insurance law in that they failed to provide the proposed effective date of the cancellation or nonrenewal. Mid-Century's notices referenced Mid-Century's notice of cancellation, a separate document which is mailed separately from the notice of the right to protest. Mid-Century stated that was how the policyholder could determine the date of potential cancellation or nonrenewal. Colorado insurance law does require that notice of cancellation/nonrenewal must be mailed separately from any other communication to the insured. However, any such notification must also include all required information (including effective date on first page) and must include the insured's right to protest information in a single document.

Of the eighty-four (84) sampled cancellation/nonrenewal files reviewed, forty-eight (48) were applicable to the required notices, and the notices sent did not include the proposed cancellation/nonrenewal effective date.

Cancellation/Nonrenewal Notice Errors

Population	Sample Size	Number of Files That Required Protest Notices	Number of Exceptions	Total Error Rate
290	84	48	48	100%

Recommendation No. 18:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of §§ 10-4-629, C.R.S., and Colorado Insurance Regulation 5-2-12. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its underwriting procedures and cancellation/nonrenewal forms to ensure that cancellation/nonrenewal notices and right to protest notices include all required information and are issued in compliance with Colorado insurance law.

CLAIMS

Issue J1: Failure, in some instances, to send a written explanation within thirty (30) calendar days after receipt of an unclear claim giving a full explanation of what additional information is needed to resolve the claim.

Section 10-4-642, C.R.S., Prompt payment of direct benefits – legislative declaration – definitions, states in part:

...

(2)(c) “Clean Claim” means:

A claim where there is no additional information needed by the insurer to accept or deny the claim. A claim requiring additional information shall not be considered a clean claim and shall be paid, denied or settled as set forth in paragraph (b) of subsection (6) of this section.

...

(6)(b) *If the resolution of a claim requires additional information, the insurer shall, within thirty calendar days after receipt of the claim, give to the claimant a full explanation in writing of what additional information is needed to resolve the claim, including any additional medical or other information related to the claim.* The person receiving a request for such additional information shall submit all additional information requested by the insurer within thirty calendar days after receipt of such request. The insurer may deny a claim if a provider receives a request for additional information and fails to timely submit additional information requested under this paragraph (b), subject to the resubmittal of the claim or terms of the policy. If such person has provided all such additional information necessary to resolve the claim, the claim shall be paid, denied, or settled by the carrier within thirty days after receipt of additional information or after the applicable time period set forth in paragraph (c) of this subsection (6). [Emphasis added.]

Mid-Century was not in compliance with Colorado insurance law in that seventy-four (74) of the eighty-three (83) claims adjudicated in over ninety (90) days claim files did not contain a copy of the pending notice required on all claims for each invoice in which payment had been delayed.

Colorado insurance law requires insurers to request additional information needed to adjudicate a claim within thirty (30) calendar days after receipt of the claim, to make such request in writing and to include a full explanation in that request of what is needed to resolve that claim.

Medical Payments Coverage Pending Notices

Population	Sample Size	Number of Exceptions	Total Error Rate
288	83	74	89%

Recommendation No. 19:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-4-642, C.R.S. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its procedures to ensure that the insurer shall, within thirty (30) calendar days after receipt of the claim, give to the claimant a full explanation in writing of what additional information is needed to resolve the claim, including any additional medical or other information related to the claim in compliance with Colorado insurance law and Mid-Century's guidelines.

Issue J2: Failure in some instances, to pay, deny, or settle claims within the time frame required by Colorado insurance law.

Section 10-4-642, C.R.S., Prompt payment of direct benefits – legislative declaration – definitions, states in part:

...

(2)(c) “Clean Claim” means:

- I. A claim where there is no additional information needed by the insurer to accept or deny the claim. *A claim requiring additional information shall not be considered a clean claim and shall be paid, denied or settled as set forth in paragraph (b) of subsection (6) of this section.*

...

(6)(b) If the resolution of a claim requires additional information, the insurer shall, within thirty calendar days after receipt of the claim, give to the claimant a full explanation in writing of what additional information is needed to resolve the claim, including any additional medical or other information related to the claim.

...

If such person has provided all such additional information necessary to resolve the claim, *the claim shall be paid, denied, or settled by the insurer within thirty days after receipt of additional information or after the applicable time period set forth in paragraph (c) of this subsection (6).*

(c) Absent fraud, all claims other than clean claims *shall be paid, denied, or settled within ninety calendar days after receipt by the insurer.* [Emphases added.]

Mid-Century is not in compliance with Colorado insurance law in that thirty-two (32) of the eighty-three (83) claims over ninety (90) days were not paid, denied, or settled within ninety (90) calendar days after receipt by the insurer. There was no indication in the claim records that any of the cited claims involved fraud. Absent fraud, all claims, other than clean claims, are to be paid, denied, or settled within ninety (90) calendar days of receipt.

Medical Payment Claims Over 90 Days

Population	Sample Size	Number of Exceptions	Total Error Rate
288	83	32	39%

Recommendation No. 20:

No later than thirty (30) days from the date this report is adopted, Mid-Century shall provide documentation demonstrating why it should not be considered to be in violation of § 10-4-642, C.R.S. In the event Mid-Century is unable to provide such documentation, it shall be required to provide written evidence to the Division that it has revised its procedures to ensure that each unclear medical payments claim shall be paid, denied or settled within ninety (90) calendar days in compliance with Colorado insurance law.

SUMMARY OF ISSUES AND RECOMMENDATIONS	Rec. No.	Page No.
COMPANY OPERATIONS AND MANAGEMENT		
Issue A1: Failure to retain and provide medical payment claims received dates as required for testing of timeliness of paid and denied medical payment claims for market conduct purposes.	1	22
Issue A2: Failure, in some instances, to provide requested records and/or documentation within the required time period during the course of a market conduct examination.	2	24
CONTRACT FORMS		
Issue E1: Failure in some instances, to limit cancellation of a private passenger automobile policy to reasons that are allowable under Colorado insurance law.	3	27
Issue E2: Failure to provide accurate information in a form regarding the location of additional information on Mid-Century's website.	4	28
Issue E3: Failure to provide correct information regarding medical payments coverage in an automobile policy endorsement form.	5	30
Issue E4: Certifying, in the annual forms certification filing, forms that were not in compliance with Colorado insurance law.	6	35
Issue E5: Failure, in some instances, to include forms in use during the examination period on the annual certification of forms list or on a new form certification filing in compliance with Colorado insurance law.	7	38
RATES		
Issue F1: Failure in some instances, to apply rating factors based on Mid-Century's filed rates, as required by Colorado insurance law.	8	42
Issue F2: Failure to use a procedure to rate uninsured motorist coverage that ensures all similarly situated individuals are treated the same in compliance with Colorado insurance law.	9	45
NEW BUSINESS		
Issue G1: Failure in some instances, to have applications signed and/or signed timely in compliance with Mid-Century's guidelines, and failure to retain those documents in compliance with Colorado law.	10	49
Issue G2: Failure, in some instances, to obtain signed medical payments rejections prior to issuing automobile insurance coverage without medical payments coverage as required by Colorado insurance law.	11	51
Issue G3: Failure in some instances, to provide a rate quote for all Companies within the Farmers Group for which the applicant qualified, and/or failing to offer all applicable policy discounts.	12	53
Issue G4: Failure to include notice of the right of the insured to replace coverage through an assigned risk plan in notices of	13	55

SUMMARY OF ISSUES AND RECOMMENDATIONS	Rec. No.	Page No.
premium increase upon renewal in compliance with Colorado insurance law.		
Issue G5: Failure, in some instances, to provide correct notification of the right to protest a premium increase at renewal in compliance with Colorado insurance law.	14	58
Issue G6: Failure to include correct instructions in the underwriting guidelines regarding premium increases at renewal due to violations by including driver violations that occurred more than thirty-six (36) months prior to the renewal date.	15	60
CANCELLATIONS/NONRENEWALS		
Issue H1: Failure, in some instances, to provide and/or provide accurate cancellation/nonrenewal notices with the notification of the right to protest when required and failure to offer named driver exclusions in compliance with Colorado insurance law.	16	64
Issue H2: Failure, in some instances, to provide an offer to exclude a driver in compliance with Colorado insurance law.	17	66
Issue H3: Failure in some instances, to provide a correct Right to Protest notice for cancellation or nonrenewal in compliance with Colorado insurance law.	18	68
CLAIMS		
Issue J1: Failure, in some instances, to send a written explanation within thirty (30) calendar days after receipt of an unclear claim giving a full explanation of what additional information is needed to resolve the claim.	19	71
Issue J2: Failure in some instances, to pay, deny, or settle claims within the time frame required by Colorado insurance law.	20	73

Examination Report Submission

State Market Conduct Examiner

**Jeffory A. Olson, CIE, MCM, FLMI, AIRC, ALHC
Examiner-In-Charge**

And

Independent Contract Market Conduct Examiners

Dixon Hughes, PLLC

**Thomas D. McIntyre, CIE, MCM, CPCU, FLMI, AIRC, APA, ARA, ACS
Lead On-Site Examiner**

Thomas L. Ballard, CIE, CFE, MCM, ALHC, FLMI

Thomas W. Jones, AIE, AIRC, CCP, CLCR, MCM

Submit this report this 8th day of April, 2011, on behalf of:

**The Colorado Division of Insurance
1560 Broadway, Suite 850
Denver, Colorado 80202**